

**IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH.**

**CRM-M-25962 of 2021(O&M)**

**Date of Decision:-17.11.2021**

**Arshad.**

.....Petitioner.

Versus

**State of Haryana.**

.....Respondent.

**CORAM:- HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present:- Mr. Jamshed Ahmed, Advocate for the Petitioner.

Ms. Tanushree Gupta, DAG Haryana.

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**MANJARI NEHRU KAUL, J.(ORAL)**

The instant second petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.70, dated 06.08.2020, under Sections 376, 376D, 452 of IPC registered at Women Police Station Manesar, District Gurugram (Haryana).

Learned Counsel for the petitioner contends that there was a history of animosity between the parties as they were entangled in a civil litigation. He further contends that it is in the aforementioned background that a false and fabricated case was planted upon the petitioner by the prosecutrix aged about 35 years on the allegations that all the accused including the petitioner had committed rape upon her.

Learned Counsel further submits that false case having been planted upon the petitioner finds credence from the fact that while stepping into the witness box as PW-2 the prosecutrix did not support the case of the prosecution as a result of which she was declared hostile. In support, the learned Counsel has drawn the attention of the Court to the deposition of the prosecutrix annexed as P-9. A prayer has therefore been made to extend

the concession of bail to the petitioner who has been in custody since 18.04.2021 and since the prosecutrix stands examined his further incarceration would not serve any purpose.

Per contra, learned State Counsel while opposing the prayer and submissions made by learned Counsel for the petitioner, on instructions from Lady SI Rashmi has not been able to controvert the factum of the prosecutrix turning hostile during her deposition before the trial Court. He has further apprised the Court that 21 more prosecution witnesses remains to be examined.

Heard.

In the facts and circumstances of the case as enumerated hereinabove, I deem it a fit case to extend the concession of bail to the petitioner as the trial is not likely to be concluded in near future, coupled with the fact that the sole material witness i.e. the prosecutrix already stands examined.

The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of trial Court/Duty Magistrate. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

( MANJARI NEHRU KAUL )  
JUDGE

November 17, 2021  
Vinay

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| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |