

226 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(through video conferencing)

CRM-M-29394-2021
Decided on : 28.10.2021

Sanjeev Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. S.K.Garg Narwana, Sr. Advocate with
Mr. Nitin Sachdeva, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

Manjari Nehru Kaul, J.

This is the third petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.99 dated 20.04.2020 registered under Sections 376(2)(n), 376(2)(F), 342 and 506 IPC and Sections 66(E) and 67(A) of IT Act (Section 376(2)(F) IPC and Sections 66 (E) and 67(A) of IT Act were deleted later on) at Police Station City Saffidon District Jind.

Learned senior counsel for the petitioner *inter alia* contends that a false and fabricated case has been foisted upon the petitioner which finds credence from the fact that the police while presenting the final report under Section 173 Cr.PC deleted the offences under Section 66(E) and 67 (A) of the IT Act as no material came to light during the investigation qua these offences. Learned senior counsel while drawing the attention of the Court to the allegations levelled in the FIR (Annexure P-1) has submitted that the petitioner had allegedly established forcible physical relations with the prosecutrix, a married woman, aged 40 years in March 2017 and

thereafter had continued to have forcible physical relations over a period of time till May, 2019 after blackmailing her and putting her under threat of making her obscene video viral. He submitted the very factum of the police not finding any substance in the allegations levelled qua the alleged possession of an obscene video of the prosecutrix by the petitioner demolished the very genesis of the prosecution case. Besides this, he submitted that the delay of three years in lodging of the FIR further created a serious dent in the case of the prosecution and clearly hinted that the instant case was nothing but a bundle of lies. While inviting the attention of this Court to the zimni orders passed by the Court below, which have been placed on record today, learned counsel submitted that it was very apparent that the prosecutrix for reasons best known, rather obvious, had been avoiding to put in an appearance to get her evidence recorded. He submitted that 16.03.2021 onwards, despiteailable warrants having been issued to secure her presence time and again, she had failed to put in appearance before the trial court. Hence, a prayer was made for extending the concession of bail to the petitioner as he had been in custody since 13.05.2020 and there was no likelihood of the trial concluding in the near future.

Per contra, learned State counsel while opposing the prayer of learned counsel for the petitioner has not been able to controvert the factum of the prosecutrix not having put in an appearance before the trial Court to get her statement recorded. He, on instructions from ASI Jagdish has submitted that three prosecution witnesses which include two doctors and a formal witness stand examined. Learned State counsel has further conceded

on instructions, that the police had deleted offences under Section 66(E) and 67(A) of IT Act while presenting the challan.

Heard.

In the facts and circumstances of the case as enumerated hereinabove and the submissions made by learned counsel, the present petition is allowed as the trial is unlikely to conclude shortly. The petitioner be admitted to bail to the satisfaction of the 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

28.10.2021

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No