

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(Through Video Conferencing)

CRM-M-28419-2021

Date of Decision: 28.07.2021

VIJAY KUMAR

.....*Petitioner*

V/s.

STATE OF HARYANA

.....*Respondent*

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

Present: Mr. Namit Khurana, Advocate,
 for the petitioner.

 Ms. Tanushree Gupta, DAG, Haryana.

MANJARI NEHRU KAUL, J. (Oral)

This is the first petition filed under Section 439 of the Code of Criminal Procedure for grant of concession of regular bail to the petitioner in case FIR No.410 dated 21.12.2019 lodged under Section 376-DA of the Indian Penal Code, 1860, Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 66-E and 67 of the Information Technology Act, 1961 registered at Police Station Kunjpura, District Karnal, Haryana.

Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the case in hand which is evident from the fact that both the material witnesses i.e. complainant (mother of the prosecutrix) and the prosecutrix, who stepped into the witness box as PW-1 and PW-2 respectively did not support the case of the prosecution and as a result of which they were declared hostile. He has submitted that the petitioner has been in custody since 28.12.2019 and hence, there is no likelihood of the trial concluding in the near future as 11 more prosecution witnesses remained to be examined.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from SI Kulwant, has not been able to controvert the factual aspect of the submissions made by the learned counsel for the petitioner. She has further conceded that two material witnesses i.e. prosecutrix and the complainant (mother of the prosecutrix) did not support the case of the prosecution and were declared hostile.

Heard.

In view of the submissions made by learned counsel for the petitioner and the fact that the petitioner has been in custody since 28.12.2019, the trial is unlikely to conclude in the near future, the present petition is allowed and the petitioner is 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.

July 28, 2021

Ess Kay

**[MANJARI NEHRU KAUL]
JUDGE**

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>