

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

**CRM-M-29914-2021
Date of decision: 17.11.2021**

Rahul**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. B. S. Randhawa, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 68 dated 21.04.2020, registered under Section 376-AB IPC and Section 6 of the POCSO Act, 2012 at Police Station Nangal, District Ropar.

The first petition, bearing CRM-M-3103-2021, was dismissed on 29.01.2021 with liberty to petitioner to file afresh, after the statement of the complainant/victim is recorded.

Learned counsel for the petitioner submits that the new ground for filing the present petition is that now the statement of the complainant/PW-2 Manu has been recorded, wherein she has not supported the prosecution version and was declared hostile. When this witness was confronted with her statement recorded under Section 164 Cr.P.C., it is stated that the said statement was recorded under a threat given by the police.

Learned counsel relies upon the MLR of the victim, wherein it is stated that it does not suggest that it was a case of penetrative sexual assault and charge is only under Section 6 of the POCSO Act.

Learned State counsel has filed the custody certificate and has not disputed the factual position. As per custody certificate, the petitioner is in judicial custody for the last about 01 year and 07 months and he is not involved in any other case.

After hearing learned counsel for the parties, without making any comment on the merits of the case, considering the fact that though as per allegations in the FIR, registered at the instance of complainant/PW-2 Manu, it is alleged that the petitioner has tried to commit rape with his minor daughter, however, later on, she has suffered and affidavit to the contrary and now she has turned hostile and also in view of the fact that petitioner is in judicial custody for the last about 01 year and 07 months, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

17.11.2021

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No