

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

109+237

**CRM-M-30658-2021 (O&M)
Decided on : 07.12.2021**

Pankaj

. . . Petitioner(s)

Versus

State of U.T. Chandigarh

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Sudesh Khurcha, Advocate
for the petitioner(s).

Mr. Deepinder Brar, Addl. PP, UT Chandigarh
assisted by ASI Parminder Singh.

MANJARI NEHRU KAUL, J. (Oral)

CRM-41852-2021

Prayer in this application is for placing on record the Medical Report (Annexure R-1).

For the reasons mentioned in the application, same is allowed and the Medical Report (Annexure R-1) is taken on record, subject to all just exceptions.

CRM-M-30658-2021

The instant petition has been filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 305, dated 12.12.2019, under Section 376 of IPC and Sections 4 & 6 of the POCSO Act, 2012, registered at Police Station Industrial Area Chandigarh.

Learned counsel for the petitioner submits that the false implication of the petitioner in the case in hand is evident from the fact that the victim aged 15 years while stepping into the witness-box as PW-1, did not support the case of the prosecution and did not level

allegations of rape against the petitioner, as a result of which, she was declared hostile. It has been submitted that the petitioner has now been in custody for close to two years and there is no likelihood of the trial concluding anytime in the near future, as 16 prosecution witnesses remain to be examined. A prayer has, therefore, been made to extend the concession of bail to the petitioner, as his further incarceration would not serve any useful purpose.

Per contra, learned State counsel while opposing the prayer made by learned counsel for the petitioner, on instructions from ASI Parminder Singh, has not been able to controvert the factum of the victim turning hostile during trial. However, he has submitted that while getting her statement under Section 164 Cr.P.C., the victim had levelled allegations of rape against the petitioner, who also happens to be her first cousin.

On a pointed query put to the learned State counsel as to whether there was any medical evidence to corroborate the allegations of rape, he replied in the negative. Learned State counsel has conceded that the victim is the sole material witness and the other remaining witnesses, who remain to be examined, are formal witnesses.

Heard learned counsel for the parties and perused the material on record

In the facts and circumstances of the case as enumerated hereinabove, further incarceration of the petitioner would serve no useful purpose, as the sole material witness i.e. the victim, already stands examined and as submitted by the learned State counsel as well, has turned hostile during trial. The petition is allowed. The petitioner be 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

December 07, 2021

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*