

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

CRM-M-34995-2020

Date of Decision: 07.09.2021

HARENDER @ RAJ

.....Petitioner

V/s.

STATE OF HARYANA

.....Respondent

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

Present: Mr. Varlin Garg, Advocate, for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

MANJARI NEHRU KAUL, J. (Oral)

This is the second 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.89 dated 17.03.2019 lodged under Section 6 of the POCSO Act, 2012 registered at Police Station Badshahpur, District Gurugram, Haryana.

Learned counsel for the petitioner submits that a false and fabricated case has been foisted upon the petitioner which is evident from the fact that the victim was not 14 years of age as has been stated but was major on the date of alleged occurrence. It has further been submitted that it very evident that the victim was in a consensual relationship with the petitioner and in support of his submissions he has invited the attention of this Court to Annexure P-5 wherein also the victim while stepping into the witness box has stated that she was in a consensual relationship with the petitioner and he had never enticed her away on the pretext of solemnizing marriage. He further submits that the complainant, who is the mother of the victim, did not support the case of the prosecution and as a result of which she was declared hostile by the trial Court.

It has, therefore, been prayed that the petitioner be extended the concession of bail as he is in custody since 18.03.2019 and there is no likelihood of the trial concluding in the near future.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from SI Meena, has submitted that there was enough evidence on record to suggest that the victim was indeed a minor on the date of the alleged occurrence. He has invited the attention of this Court to Annexure P-4 which is a statement recorded under Section 164 of Cr.P.C. of the victim wherein she has categorically stated that “the petitioner had committed wrong acts with her on a number of occasions”. He further submits that no doubt, the complainant has turned hostile, however, there would not have any bearing on the case of the prosecution since it is the victim who is the affected party and not the complainant. He has also apprised the Court that the entire prosecution evidence has been recorded and hence, the trial will not take much time to conclude.

Heard.

Prima facie, there are serious allegations leveled against the petitioner for which he does not deserve the concession of regular bail. In view thereof, the petition stands dismissed. 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.

September 7, 2021

Ess Kay

[MANJARI NEHRU KAUL]
JUDGE

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