

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
(Through Video Conferencing)**

CRM-M-31921-2020

Date of Decision: 17.02.2021

MANOJ KUMAR

.....*Petitioner*

V/s.

STATE OF PUNJAB

.....*Respondent*

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

Present: Mr. Puneet Kumar Bansal, Advocate,
 for the petitioner.

Mr. H.S. Multani, Assistant Advocate General, Punjab.

MANJARI NEHRU KAUL, J. (Oral)

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.68 dated 06.07.2019 registered under Sections 376, 120-B of the Indian Penal Code, 1860 and Section 5 and 6 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Mamdot, District Ferozepur.

Learned counsel for the petitioner submits that a perusal of the statement recorded under Section 164 of the Cr.P.C., 1973 by the prosecutorix, it is evident that false allegations have been levelled against the petitioner of violating her. Learned counsel for the petitioner has further submitted that during her testimony before the trial Court, the prosecutorix has corroborated her statement under Section 164 of the Cr.P.C. wherein she has stated that the petitioner had never forced himself upon her and whatever had happened had happened with her consent.

Learned counsel for the petitioner further submits that there is material discrepancy with regard to the age of the prosecutorix as well. He submits that the age of the prosecutorix has been wrongly mentioned as 16½

years whereas as per the school record her date of birth is 22.02.2002 and hence, she was few months less than 18 years. He has, thus, prayed for the concession of regular bail as the petitioner has been in custody since 11.07.2019 and material witness i.e. prosecutorix already stands examined.

Heard

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from SI Ajmer Singh, has submitted that as many as 9 out of 18 prosecution witnesses, including the prosecutorix, have been examined and the remaining would be examined in the near future. He has not been able to controvert the factum of the submission made by the learned counsel for the petitioner with regard to the statement made by the prosecutorix under 164 Cr.P.C. and her deposition before the trial Court where she did not level any allegations of rape against the petitioner.

Heard

In view of the submissions made by learned counsel for the petitioner and the fact that the petitioner has been in custody since 11.07.2019, the trial is unlikely to conclude in the near future more so in the wake of outbreak of pandemic COVID-19. 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.

February 17, 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>