

CRM-M-38914-2021 (O&M)

Decided on : 24.11.2021

Hari Kishan

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAULPresent : Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

Manjari Nehru Kaul, J.**CRM-39865-2021**

Application is allowed and the statements of PW-1 and PW-3 (Annexures P-5 and P-6) are taken on record subject to all just exceptions. Office to tag the same at appropriate place.

Main case

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.90 dated 08.03.2021 registered under Sections 323, 376, 506 IPC, 1860 at Police Station Baroda District Sonipat.

Learned counsel for the petitioner *inter alia* contends that false implication of the petitioner, who is 86 years old, of committing rape upon his daughter-in-law i.e. complainant, finds credence from the fact that during her deposition before the trial Court, she did not support the case of the prosecution as a result of which she was declared hostile. In support, he has drawn the attention of this Court to the deposition of the prosecutrix, which is placed on record as Annexure P-5. A prayer has, therefore, been

made to extend the concession of bail to the petitioner, who has been in custody since 09.03.2021 as his further incarceration would not serve any useful purpose.

Per contra, learned State counsel while opposing the prayer made by counsel opposite on instructions from ASI Naresh has not been able to controvert the factum of the prosecutrix turning hostile during her deposition before the trial Court. He, on instructions has further apprised the Court that 3 out of 14 prosecution witnesses cited including the prosecutrix stand examined and the next date of hearing before the trial Court is 16.12.2021 when some more prosecution witnesses are likely to be examined.

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

In the facts and circumstances of the case as enumerated hereinabove, the present petition is allowed. The petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. 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

24.11.2021

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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No