

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

(Through Video Conferencing)

CRM-M-32886-2020 (O&M)

Date of Decision: 20.07.2021

SHUBHAM SHARMA

.....*Petitioner*

V/s.

STATE OF HARYANA

.....*Respondent*

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

Present: Mr. Diwan S. Adlakha, Advocate,
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

MANJARI NEHRU KAUL, J. (Oral)

This is the first 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.164 dated 12.12.2019 lodged under Sections 365, 452, 506 of the Indian Penal Code, 1860 and Section 4 and 17 of the Protection of Children from Sexual Offences Act, 2012 (Section 376(3), 376 (DA) of the IPC added later on) registered at Police Station Women, Yamuna Nagar, District Yamuna Nagar (Haryana).

Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the case in hand which is evident from the fact that two material witnesses i.e. victim, who stepped into the witness box as PW-2 and the complainant-father, who stepped into the witness box as PW-3 did not support the case of the prosecution and were declared hostile. He submits that the petitioner has been in custody since 13.12.2019 and hence, there is no likelihood of the trial concluding in the near future as co-accused was arrested only in the recent past and therefore,

the evidence of most of the prosecution witnesses would have to be re-recorded.

On the other hand, learned State counsel has opposed the prayer and submissions of the learned counsel for the petitioner and has conceded, on instructions from ASI Meena, that both the material witnesses did not support the case of the prosecution, however, she submits that as per the FSL report the semen which was detected on the clothes of the prosecutrix matched with that of 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 13.12.2019, the trial is unlikely to conclude in the near future, 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.

July 20, 2021

Ess Kay

**[MANJARI NEHRU KAUL]
JUDGE**

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No