

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

CRM-M-37706-2020

Date of decision: 09.12.2021

Parmod Kumar Mandal

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. V.S.Mand, Advocate
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

Manjari Nehru Kaul, J. (Oral)

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.94 dated 01.11.2019 under Sections 376-D, 354-C IPC and Section 3(1)(W)(II) SC/ST Act and Section 67 IT Act registered at Police Station Ladhowal, Ludhiana.

Learned counsel for the petitioner has submitted that a false and fabricated case has been registered against the petitioner, which finds credence from the fact that there was a delay of 7 months in the registration of the FIR in question. He has further submitted that FSL report also did not corroborate the factum of any rape having been committed upon the prosecutrix. A prayer has, therefore, been made to extend the concession of bail to the petitioner as he has now been in custody since 23.11.2019.

Per contra, learned State counsel while vehemently opposing the prayer and submissions made by counsel opposite has submitted that it was a case of gang rape inasmuch as the prosecutrix, who was working as a

labourer, was waylaid by all the accused including the petitioner while she was on her way back home. She was thereafter undressed and raped by each of the accused at knife point and threatened with dire consequences, in case she dared to disclose about the rape to anyone. Soon thereafter, in view of the threats extended to her coupled with the fact that her husband was away to his native village in Bihar at that time, she also left for her native village. After mustering enough courage, she told her husband about the rape committed upon her as prior thereto she had been living under the continuous fear of the accused. She thereafter lodged an FIR at Police Station Kishanganj District Bihar wherein she gave a vivid and complete account of how the crime in question was committed. The said FIR was subsequently transferred to the State of Punjab and that is how the FIR in question came into existence. She further submitted that soon thereafter, the statement of the prosecutrix was recorded under Section 164 Cr.PC wherein she reiterated all the allegations, which stood reflected in the FIR in question. While controverting the submissions made by learned counsel for the petitioner that the medical evidence as well as the FSL report did not substantiate the factum of rape, learned State counsel submitted that since the samples were sent to the FSL after 8 months of alleged occurrence, the question of FSL report coming positive did not arise. She thus, opposed the prayer for grant of bail to the petitioner by urging that in the wake of the beastly crime committed by the petitioner along with his accomplices, he be not enlarged on bail. She also submitted that there was every likelihood of the petitioner absconding during the trial and even influencing the witnesses to dispose in his favour. She, on instructions from ASI Dilbagh Singh, has

further apprised the Court that the prosecutrix has still not been examined and the next date of hearing fixed before the trial Court is 03.01.2022.

Heard learned counsel and perused the material available on record.

In the facts and circumstances of the case as enumerated hereinabove coupled with the serious and specific allegations levelled against the petitioner, this Court does not deem it fit to extend the concession of bail to the petitioner.

Accordingly, the present 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.

09.12.2021
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No