

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

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**CRM-M-42279-2021
Date of decision: 09.12.2021**

Mohammad Salim

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Deepak Kundu, Advocate for
Mr. Piyush Khanna, Advocate
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab
for the respondent-State.

MANJARI NEHRU KAUL, J. (ORAL)

This is the second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.69 dated 29.11.2019 lodged under Sections 376-D, 363, 366-A and 368 IPC and Sections 4 and 6 of the POCSO Act registered at Police Station Garhdiwal, District Hoshiarpur.

At the outset learned counsel for the petitioner has invited the attention of this Court to Annexure P-2 which is a copy of the deposition of the prosecutrix before the learned trial Court. Learned counsel submits that while stepping into the witness box as PW-1, the prosecutrix, aged 18 years, did not support the case of the prosecution as a result of which she was declared hostile. He, thus, submits that it was evident that a false and fabricated case had been planted upon the petitioner. A prayer has, therefore, been prayed that the concession of bail may be extended to the petitioner who has now been in custody

since 25.11.2020 as his further incarceration would serve no useful purpose.

Per contra, learned State counsel, on instructions from ASI Satnam Singh, has not been able to dispute the factum of the prosecutrix having been turned hostile during trial. She submits that as many as 25 prosecution witnesses have been cited and only 8 stand examined as on date.

I have heard learned counsel for the parties and perused the material on record.

In view of the facts and circumstances as enumerated hereinabove coupled with the fact that the sole material witness i.e. the prosecutrix stands examined and has not supported the case of the prosecution, the instant 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.

09.12.2021

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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