

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

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**CRM-M-37654-2020(O&M)  
Decided on : 08.11.2021**

HARJIT SINGH

...Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

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

**PRESENT:** Mr. Shaurya Puri, Advocate  
for the petitioner.

Mr. Luvinder Sofat, AAG Punjab  
assisted by ASI Balwinder Kumar.

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**MANJARI NEHRU KAUL, J. (Oral)**

The instant petition has been filed under Section 439 Cr.P.C., for grant of regular bail to the petitioner in case FIR No.248 dated 14.10.2019 under Sections 363, 366-A and 376 of the IPC registered at Police Station Patran, District Patiala.

Learned counsel submits that the petitioner has been in custody since 03.01.2020 and there is no likelihood of the trial concluding in the near future, as only 02 out of 22 prosecution witnesses cited, have been examined so far. Learned counsel while inviting the attention of this Court to the allegations levelled in the FIR by the father of the prosecutrix (aged about eighteen and a half years) submits that it was apparent that the complainant had come up with an exaggerated and twisted version with respect to the crime in question, even though he was conscious that his daughter was a major and not a minor, as had been alleged, coupled with the

fact that in her statement recorded under Section 164 CrPC the prosecutrix had stated she had accompanied the petitioner of her own accord. Learned counsel has submitted that on a co-joint reading of the FIR as well as the statement of the prosecutrix recorded under Section 164 CrPC, it was apparent that she had been a consenting party, however, subsequently for reasons but obvious under the pressure of her family, she had levelled allegations of rape against the petitioner. Learned counsel still further submitted that had it been a case of the petitioner forcibly establishing physical relations with the prosecutrix as alleged, it failed to appeal to prudence as to what prevented the prosecutrix from raising hue and cry while the petitioner was forcibly taking her on his motorcycle and that too during the day. Learned counsel has thus prayed for extending the concession of bail to him as his further incarceration would not serve any useful purpose more so since the complainant and the prosecutrix have since been examined by the trial Court.

*Per contra*, learned State counsel while opposing the prayer of the counsel opposite on instructions from ASI Balwinder Kumar has not been able to controvert the factum of the prosecutrix being a major on the date of alleged occurrence. He, however, has apprised the Court that both the material witnesses i.e., the prosecutrix and the complainant while stepping into the witness-box have supported the case of the prosecution.

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

In view of the the facts and circumstances as enumerated hereinabove, coupled with the fact that the evidence of the material witness i.e., the prosecutrix stands recorded, the trial is unlikely to conclude shortly since 20 prosecution witnesses remain to be examined. The instant petition is allowed and the petitioner is admitted to bail to the satisfaction of trial Court/Duty Magistrate. However, it is made clear that anything contained in this order shall not be construed to be an expression of opinion on the merits of the case.

**(MANJARI NEHRU KAUL)**  
**JUDGE**

**November 08, 2021**

*S.Sharma(syr)*

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|-----------------------------------|---------------|
| <i>Whether speaking/reasoned:</i> | <i>Yes/No</i> |
| <i>Whether Reportable:</i>        | <i>Yes/No</i> |