

CRM-M-38501-2020 (O&M)

Decided on : 11.10.2021

Satbir

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAULPresent : Mr. Sandeep Siwach, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Manjari Nehru Kaul, J.**CRM-33669-2021**

Application is allowed and the statement of the prosecutrix as Annexure A-1 is 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.89 dated 30.11.2019 registered under Sections 363, 366-A IPC,1860 (Section 4 of POCSO Act added later on) at Police Station Mundkati District Palwal.

At the outset, learned counsel for the petitioner has apprised the Court that during trial when the prosecutrix stepped into the witness box as PW-1 she did not support the case of the prosecution as a result of which she was declared hostile. He submits that it lends credence to his false implication in the instant case as in her statement recorded under Section 164 Cr.PC the prosecutrix had not levelled any allegations of wrong doing against the petitioner. He further submits that since the petitioner has been

in custody since 02.12.2019 and his further incarceration would not serve any purpose as material witness i.e. prosecutrix already stands examined. Hence, a prayer has been made to extend the concession of bail to the petitioner.

Per contra, learned State counsel while opposing the prayer of learned counsel for the petitioner has not been able to controvert the factual aspect of the submissions made by learned counsel for the petitioner. She on instructions from ASI Naseeb Khan has conceded that the prosecutrix in her statement recorded under Section 164 Cr.PC had not levelled any allegation against the petitioner and even during trial she was declared hostile as she failed to support the case of the prosecution.

Heard learned counsel and perused the material available on record.

In the facts and circumstances enumerated hereinabove, the present petition is allowed as there is no likelihood of the trial concluding in the near future as only 10 prosecution witnesses remain to be examined. The petitioner be 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.

(MANJARI NEHRU KAUL)
JUDGE

11.10.2021
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No