

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

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(Through Video Conferencing)

CRM-M-40721-2020 (O&M)

Date of decision: 27.10.2021

Abhishek @ Tinku

.....Petitioner

Versus

State of U.T., Chandigarh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. J.S. Dadwal, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. Public Prosecutor
for respondent No.1-U.T., Chandigarh.

Mr. Sanjeev Roy, Advocate
for respondent No.2.

MANJARI NEHRU KAUL, J. (ORAL)

This is the first petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.88 dated 11.03.2020 lodged under Sections 363 and 366 of the Indian Penal Code, 1860 registered at Police Station Sector 39, U.T., Chandigarh.

Learned counsel for the petitioner has reiterated his submissions which were made on the previous date of hearing that the victim aged about 17 years had left her house in the company of the petitioner of her own accord. In support of his submissions, he has invited the attention of this Court to the reply filed by the State wherein the said fact stands clearly revealed. Still further it has been submitted that in the reply filed by the State it also finds reflected that after the recovery of the victim on 18.09.2020, she refused to subject herself to

any internal examination and hence there was no evidence on record with regard to any sexual assault having been committed upon her.

Learned counsel for the petitioner has apprised the Court that the victim, who is the only material witness in the case in hand, has already been examined before the trial Court and has reiterated the contents of her submissions made under Sections 164 of the Cr.P.C. In the circumstances, further incarceration of the petitioner would not serve any useful purpose.

Per contra, learned Additional Public Prosecutor on instructions from SI Major Singh, has not been able to controvert the submissions made by learned counsel for the petitioner. He on instructions has apprised the Court that 15 more prosecution witnesses remain to be examined before the trial Court.

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

In the facts and circumstances as enumerated hereinabove, the present 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.

27.10.2021

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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