

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

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**CRM-M-47342-2021
Date of decision: 16.11.2021**

Sandeep

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Chirag Wadhwa, Advocate and
Mr. G.S. Dhillon, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

This is the first petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.11 dated 31.01.2021 lodged under Sections 376(2)(n), 376(3) and 506 IPC and Section 6 of the POCSO Act registered at Women Police Station Kaithal.

While inviting the attention of this Court to the FIR annexed as Annexure P-1 as well as the statement of the victim recorded under Section 164 Cr.P.C. annexed as Annexure P-2 it has been contended by learned counsel for the petitioner that a perusal of both does not even obliquely indicate that the victim was subjected to any sexual assault much less rape. It has been submitted that only allegation attributed to the petitioner in the FIR in question as well as in her statement recorded under Section 164 Cr.P.C. is that after the victim reached Kaithal Bus Stand, she borrowed a phone from one boy and thereafter called the petitioner on his mobile number asking him to

come to the spot, however, the petitioner refused to come. Still further, it has been submitted that it was the boy, from whom she had borrowed the mobile phone, along with his accomplice who allegedly committed rape upon the victim but strangely both of them had been declared innocent by the investigating agency during investigation. Still further, learned counsel has submitted that in her statement recorded under Section 164 Cr.P.C., though the victim made a slight improvement by stating that she was being threatened by the petitioner and it was due to the threats extended to her by him, she went to the Bus Stand at Kaithal, however, yet again she reiterated that the petitioner refused to come to the Bus Stand and she was raped by the two boys who met her at the Bus Stand and from whom she had borrowed the mobile phone. Learned counsel has, therefore, prayed for extending the concession of bail to the petitioner as he has now been in custody since 03.02.2021 and there is no likelihood of the trial concluding in the near future.

Per contra, learned State counsel while opposing the prayer of counsel opposite on instructions from SI Sunita, has not been able to controvert the factual aspect of the submissions made by the counsel opposite. She, however, has submitted that while stepping into the witness box as PW-1, the victim had levelled allegations of rape against the petitioner as well.

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

In the facts and circumstances as enumerated hereinabove and the fact that the trial is unlikely to conclude in the near future as 27 prosecution witnesses remain to be examined, 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.

16.11.2021

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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