

CRM-M-51792-2021
Decided on : 17.12.2021

Darshan Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAULPresent : Mr. D.S.Malwai, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

MANJARI NEHRU KAUL, J.

Instant petition has been filed under Section 439 Cr.P.C., for grant of regular bail to the petitioner in case FIR No.30 dated 18.03.2021 under Sections 376-D IPC, 1860 and Section 4 of POCSO Act later on changed to Section 6 of POCSO Act and added Section 3(2)(v) of SC/ST Act registered at Police Station Barnala District Barnala.

At the outset, while inviting the attention of this Court to the FIR(Annexure P-1), learned counsel for the petitioner submits that the version put-forth therein is at complete variance with the deposition of the prosecutrix when she stepped into the witness box as PW-1. In support, he has taken this Court through the deposition of the prosecutrix wherein indeed she has given an altogether different version qua the alleged rape committed upon her. He further submits that the prosecutrix, thus, failed to support the case of the prosecution as a result of which she was declared hostile during trial. A prayer, therefore, has been made to extend the concession of bail to the petitioner as he has been in custody since

22.04.2021 and his further incarceration in the aforementioned circumstances would not serve any useful purpose.

Per contra, learned State counsel while opposing the prayer made by counsel opposite has not been able to controvert the submissions made by counsel opposite with respect to a totally contrary version having been given by the prosecutrix as against her initial version given at the time of the registration of FIR, while stepping into the witness box as PW-1. He, on instructions from ASI Nirmaljit Singh submits that only two out of 35 prosecution witnesses stand examined and the next date of hearing before the trial Court is 24.12.2021. He has conceded that the prosecutrix is the sole material witness in the case in hand.

Heard learned counsel for the parties and perused the material available including the deposition of the prosecutrix on record.

In the facts and circumstances of the case as enumerated hereinabove since the sole material witness i.e. prosecutrix already stands examined, 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.

17.12.2021
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No