

**214 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
(through video conferencing)**

CRM-M-52993-2021
Date of decision:22.12.2021

Masoom Ali Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Mohita Mehta, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

Instant petition has been filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.61 dated 23.05.2020 under Sections 376 and 120-B IPC and Section 6 of POCSO Act, 2012 (Section 376(D) IPC added later on) registered at Police Station Chabbewal, District Hoshiarpur (Annexure P-1).

Learned counsel for the petitioner submits that in fact the FIR in question came to be registered as a counter blast to FIR No.60 dated 23.05.2020, under Sections 323, 342 and 506 IPC read with Section 34 IPC, which had been got registered against the family of the complainant by the petitioner just a couple of hours prior to the FIR in question. She further submits that false implication of the petitioner in the crime in question is also evident from the fact that while stepping into the witness box as PW-1, the victim, aged 17 years, had made self contradictory statements, which created a big dent in the case of the prosecution wherein, in fact, she had during her cross-examination stated in no uncertain terms that none of the

accused had committed rape upon her. In support, learned counsel has invited the attention of this Court to the deposition of the victim before the trial Court annexed as Annexure P-9. She still further submits that even as per FSL report, no semen was detected in the case property sent, which further lent credence to a false case having been registered. Learned counsel has further submitted that as there is no likelihood of the trial concluding in the near future, further incarceration of the petitioner would be of no avail. A prayer has, therefore, been made to extend the concession of bail to the petitioner as he has now been in custody since 04.12.2020.

Per contra learned State counsel on instructions from ASI Satnam Singh has not been able to controvert the factum of the victim having made self contradictory statements while getting her evidence recorded before the trial Court. She, on instructions has further apprised the Court that 20 prosecution witnesses remain to be examined.

Heard learned counsel and perused the material available on record.

In the facts and circumstances of the case as enumerated hereinabove as well as submissions made by learned counsel for the parties, 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.

22.12.2021
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(MANJARI NEHRU KAUL)
JUDGE

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