

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

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CRM-M-2697-2022 (O&M)

Date of decision: 25.02.2022

Hemant

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana
for the respondent-State.

Mr. Siddhart Sihag, Advocate
for the complainant.

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.94 dated 26.04.2021 lodged under Sections 343 and 376(3) IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Sadar Bahadurgarh, District Jhajjar.

Learned counsel for the petitioner submits that it was essentially a consensual relationship between two mature adults and even as per the admitted case of the prosecutrix, the parties had solemnized marriage on 24.04.2021. Learned counsel submits that since the family of the prosecutrix was unhappy with her marriage with the petitioner, the complainant father planted a false case against the petitioner levelling allegations against the petitioner of raping his minor daughter i.e. the prosecutrix which again was factually incorrect as it had been conceded by not only the complainant but other witnesses also

during trial that the prosecutrix was a major on the date of alleged occurrence. Learned counsel further submits that the false implication of the petitioner in the FIR in question finds further credence from the fact that all the material witnesses including the prosecutrix and the complainant did not support the case of the prosecution during trial as a result of which they were all declared hostile. In support, learned counsel has referred to the deposition of the prosecutrix and other material witnesses which has been annexed as Annexure P-2. Learned counsel submits that since all the material witnesses including the prosecutrix stand examined and who as already submitted earlier did not support the case of the prosecution, his further incarceration in the facts and circumstances would serve no useful purpose.

Learned State counsel assisted by learned counsel for the complainant has not been able to dispute the submissions made by counsel opposite qua all the material witnesses including the prosecutrix and the complainant turning hostile during trial. Learned State counsel submits that 09 out of 23 prosecution witnesses stand examined and the next date of hearing before the trial Court is 21.03.2022.

I have heard learned counsel for the parties and perused the relevant material placed on record including the deposition of the material witnesses which has been annexed with the petition.

The trial is unlikely to conclude in the near future coupled with the fact that since all the material witnesses stand examined, this Court deems it appropriate to extend the concession of bail to the petitioner. Accordingly, 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.

25.02.2022

(MANJARI NEHRU KAUL)

Vinay

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No