

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

227

(Through Video Conferencing)

CRM-M-5355-2021

Date of decision: 21.01.2022

Bhom Singh @ Rohit

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Satbir Singh Gill, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana
for the respondent-State.

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.79 dated 26.07.2019 lodged under Sections 376(2)(N), 451 and 506 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Women, Sirsa, District Sirsa.

Learned counsel for the petitioner submits that except for the bald statement made by the prosecutrix while getting the FIR in question registered and while getting her statement recorded under Section 164 Cr.P.C., there was no evidence on record much less medical which would lend credence to the allegations of rape having been committed upon her by the petitioner. He further submits that the report of the FSL did not corroborate the allegations of rape. Learned counsel submits that the delay of about one and a half month in lodging of the FIR from the date of alleged occurrence further lends credence to the false implication of the petitioner. Learned counsel submits that the petitioner has been in custody

since 05.09.2019 and there is no likelihood of the trial concluding in the near future as 17 prosecution witnesses remain to be examined out of 25 prosecution witnesses cited. Learned counsel submits that since the evidence of the prosecutrix has been recorded, his further incarceration would not serve any useful purpose.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from SI Komal Singh, has submitted that there were specific allegations levelled against the petitioner of having raped the prosecutrix on a couple of occasions. Learned State counsel has conceded that as per report received from the FSL, no semen was detected on any of the exhibits which were sent to it.

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

Be that as it may, the prosecutrix who is the sole material witness already stands examined. Admittedly, there is no other case of similar nature registered against the petitioner. The petitioner is ready to face proceedings in accordance with law. In the circumstances, the instant petition is allowed, as the trial will take some time to conclude. 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.

21.01.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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