

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

211

**CRM-M-7853-2022
Date of decision: 23.05.2022**

Rajender Dagar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Akashdeep Singh, Advocate
for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

This is the second petition filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case FIR No.53 dated 09.03.2021 lodged under Sections 342, 354 and 506 IPC, Section 3(1)I of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 18 and 8 of the Protection of Children from Sexual Offences Act, 2012 (Sections 10 of the Protection of Children from Sexual Offences Act, 2012 was added while Sections 18 and 8 of the Protection of Children from Sexual Offences Act, 2012 were deleted lateron) registered at P.S. Line Par Bahadurgarh, District Jhajjar.

Learned counsel for the petitioner submits that subsequent to the withdrawal of the previous petition under Section 439 Cr.P.C., on 30.06.2021, the victim, who is the sole material witness in the case in hand, stands examined.

Learned counsel submits that on the face of it, a false and fabricated case has been planted upon the petitioner after six days of the

alleged occurrence, which is stated to have taken place in the office of the petitioner in the morning during school hours. Learned counsel while drawing the attention of this Court to the allegations levelled in the FIR in question (annexed as Annexure P-1), submits that it was alleged therein that the petitioner after attempting to outrage the modesty of the victim, had threatened her not to disclose the occurrence to anyone or else she would face dire consequences. However, strangely the very same evening, the victim had exchanged whatsapp messages with the petitioner vide Ex.D2, requesting him 'to have their party on 10th March". In support, learned counsel has placed on record the said whatsapp message (Ex.D2), which is taken on record, subject to all just exceptions. Learned counsel submits that had there been any grain of truth in the allegations levelled in the FIR in question, no such whatsapp exchanges would have possibly taken place. Learned counsel submits that in fact the victim, who is a student in the school of the petitioner had been caught on the CCTV camera in a compromising position with a class fellow. She was conscious of the said fact and feared that the petitioner would complain about the same to her family. Learned counsel while drawing the attention of this Court to the deposition of the victim, which has been annexed as Annexure P-5, submits that the victim during her cross-examination during trial, had admitted to having sent the aforementioned message to the petitioner. It is, thus, in the aforementioned background, the victim cooked up a false and fabricated story. He further submits that the petitioner has now been in custody for more than a year having been arrested on 09.03.2021 and there is no likelihood of the trial concluding in the near

future, as only 07, out of the 17 prosecution witnesses, stand examined. He submits that further incarceration of the petitioner in the aforementioned circumstances, would not serve any useful purpose, more so, when the sole material witness i.e. the victim, stands examined.

Per contra, learned State counsel while opposing the prayer of the petitioner, on instructions, has not been able to controvert the submissions made by the counsel opposite *qua* the exchange of whatsapp messages (Ex.D2) between the petitioner and the victim on the same day of the alleged occurrence. He, however, submits that the victim while stepping into the witness-box supported the case of the prosecution and reiterated her allegations against the petitioner.

On a pointed query put to the learned State counsel, as to whether the petitioner was involved in any other criminal case, he replied in the negative. Learned State counsel, on instructions, conceded that the victim was the sole material witness in the case in hand.

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

The victim, who is the sole material witness, stands examined. The petitioner has been in custody since 09.03.2021 and 10 prosecution witnesses remained to be examined. The trial will, therefore, take considerable time to conclude and further incarceration of the petitioner shall served no useful purpose. Thus, in the facts and circumstances, as enumerated hereinabove, the instant petition is allowed. The petitioner is 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.

23.05.2022

J.Ram/Vinay

(MANJARI NEHRU KAUL)**JUDGE**

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