

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

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**CRM-M-7913-2022
Decided on : 17.05.2022**

Rajesh Kumar

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. S.K. Singla, Advocate
for the petitioner(s).

Mr. Abhay Pal Singh Gill, AAG, Punjab
assisted by ASI Mukhtiar Singh.

MANJARI NEHRU KAUL, J. (Oral)

This is the second petition filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 33, dated 14.02.2020, under Sections 363, 366-A IPC and Sections 3 & 4 of the POCSO Act, 2012, registered at Police Station City Khanna, District Khanna (annexed as Annexure P-1).

Learned counsel for the petitioner submits that the false implication of the petitioner in the case in hand is evident from the fact that though he was arrested way-back on 20th June, 2020 and charges were framed more than a year back i.e. on 22nd February, 2021, the material witnesses including the victim had not stepped into the witness-box to get their evidence recorded. He further submits that it is a matter of record that the case has been adjourned on as many as 08 dates, on account of non-appearance of the material witnesses.

A prayer has, therefore, been made to extend the concession of bail to the petitioner, as there is no likelihood of the trial concluding in the

near future. He also submits that the petitioner has clean antecedents and is not involved in any other criminal case, much less, a case of similar nature.

Per contra, learned State counsel on instructions from ASI Mukhtiar Singh, has not been able to controvert the submissions made by the counsel opposite that none of the material witnesses have stepped into the witness-box to get their evidence recorded. He, on instructions submits that as many as 17 prosecution witnesses have been cited including the complainant and the victim, who are the material witnesses. He, on further instructions has apprised the Court that the next date fixed before the trial Court is 26th May, 2022, when the complainant as well as the victim have again been summoned to depose before the trial Court.

On a pointed query put to learned State counsel as to whether the petitioner was involved in any other criminal case, he has replied in the negative. However, he has submitted that there are serious allegations levelled against the petitioner of having lured a minor aged 16 years, on the pretext of marriage.

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

The petitioner has been in custody since 20th June, 2020 and as conceded by the learned State counsel, the trial has come to a virtual stand still on account of the material witnesses not stepping into the witness-box to get their evidence recorded, despite they being repeatedly summoned even throughailable warrants.

This Court would like to observe here that under trial prisoners cannot be left languishing for an indefinite period during the pendency of a trial for reasons not attributable to them, except, of course if, there are some

convincing and satisfactory reasons for their incarceration. No doubt, the learned State counsel did submit that there are serious allegations levelled against the petitioner of having lured a minor on the pretext of performing marriage with her, however, at the same time, it needs to be reiterated that the right to life and personal liberty granted by the Constitution of India also covers the right to speedy trial. Therefore, when an under trial has been in custody for a significant period of time and the trial is being held up for no fault on his part, like in the case in hand, and the trial is not expected to conclude within a reasonable time, the Courts cannot be expected to be a mute spectator. Rather, the Courts should unhesitatingly interfere for securing the personal liberty of an under trial.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner during the pendency of the trial as he has now been in custody for about two years, having been arrested on 20th June, 2020 coupled with the fact that he is not involved in any other criminal case. The petition is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned. However, it is made clear that any observation made here-in-above shall not be construed as an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

May 17, 2022

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No