

211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8967-2022
Decided on : 27.09.2022

Amandeep Singh @ Phallu

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. S.K.Arya, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

This is the second petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.109 dated 04.09.2020 under Sections 376/506 IPC registered at Police Station Ghanie Ke Bangar, Batala District Gurdaspur.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case in hand and there is no likelihood of the trial concluding in the near future as 8 out of 18 prosecution witnesses cited so far remain to be examined. While drawing the attention of this Court to the deposition of the prosecutrix as well as her medico-legal examination, which was conducted soon after the registration of the FIR in question, learned counsel submits that it is evident that a false case has been planted upon the petitioner as the prosecutrix and her siblings were averse to the petitioner's marriage with their mother and thus, they had all

conspired to implicate him in a false case on one pretext or the other. In support, learned counsel has invited the attention of this Court to the testimony of the prosecutrix, which has been annexed as Annexure P-8 wherein the prosecutrix admitted during her cross-examination that she and her family were unhappy with the marriage of her mother with the petitioner and since the petitioner was refusing to move out of their house, she alongwith her family members had conspired to throw him out on some pretext or the other. He further submits that not only the MLR of the prosecutrix demolishes the case of the prosecution but also the FSL report (Annexure P-6) corroborates the factum of the false implication as the following observations were made by the doctor “*Human semen and male DNA was not detected on the Exhibits A-1 to A-5 (source : vaginal swabs stated to be of Preeti and Exhibits B-1 and B-2 (source: Pajama and T-shirt stated to be of Preeti)*”. A prayer has therefore been made to extend the concession of bail to the petitioner as the trial shall take considerable time to conclude.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite, on instructions submits that the petitioner had raped his step-daughter i.e. the prosecutrix and hence, he did not deserve the concession of bail as the crime committed by him was heinous in nature. He, however, has not been able to controvert the factum of there being no medical evidence on record to substantiate the allegations of rape levelled by the prosecutrix. He has also conceded that during her cross-examination, which has been annexed as Annexure P-8, the prosecutrix had admitted that since they were unhappy with the marriage of their mother with the

petitioner, the family had been conspiring to throw him out of their house.

Heard learned counsel for the parties and perused the relevant material on record.

In the facts and circumstances as enumerated hereinabove coupled with the fact that since all the material witnesses i.e. prosecutrix and her mother stand examined before the trial Court, further incarceration of the petitioner, who has been in custody since 05.10.2020, would not serve any useful purpose. This Court, therefore, deems it fit to extend the concession of bail to the petitioner. Accordingly, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to 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.

27.09.2022
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No