

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

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**CRM-M-11410-2022
Decided on : 23.03.2022**

Lakhwinder Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Deepak Arora, Advocate
for the petitioner(s).

Mr. H.S. Grewal, Addl. AG, Punjab.

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. 10, dated 27.04.2021, under Sections 376, 506 of IPC, registered at Police Station Dhar Kalan, District Pathankot.

The previous petition was dismissed as withdrawn on 05th January, 2022. On a pointed query put to the learned counsel for the petitioner as to what was the material change in circumstances subsequent to the withdrawal of the earlier petition, he submitted that charges had since been framed.

Learned counsel while drawing the attention of this Court to the contents of the FIR in question, which stands reproduced in the paper-book, submits that a perusal of the same leaves no manner of doubt that the relationship between the prosecutrix, aged 32 years and the petitioner was essentially a consensual relationship between two mature adults. Learned counsel submits that as per the allegations levelled, the prosecutrix was forcibly raped on 10th March, 2021 by the petitioner in her own house and

threatened that in case she revealed about the incident to anyone, she would be physically eliminated. Learned counsel submits that strangely even thereafter, as per her own admission, she went to a hotel on 17th March, 2021 and then again on 19th April, 2021, where the petitioner again established physical relations by giving her a false promise of marriage. Learned counsel further submits that had there been any grain of truth in the allegations that on 10th March, 2021, the prosecutrix had indeed been raped after being put under threat, she would not have dared to go to different hotels with the petitioner and also trusted his alleged promise of marrying her, more so, when she had been threatened with dire consequences.

Learned counsel therefore submits that in the aforesaid circumstances, it was evident that the prosecutrix had been a consenting party all throughout and there was no threat extended to her even when she was allegedly raped by the petitioner on 10th March, 2021. Learned counsel further submits that as the petitioner has been in custody since October, 2021 and there is no likelihood of the trial concluding in the near future as prosecution evidence is due to commence only on 12th April, 2022. It has also been submitted that the petitioner is not involved in any other criminal case, much less, of similar nature coupled with the fact that he is a serving defense personnel and hence, there is no likelihood that he could abscond during trial.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions concedes that the next date before the trial Court is 12th April, 2022, when the prosecution evidence is likely to commence. He has not disputed the submissions made by the counsel opposite of the petitioner not being

involved in any other criminal case.

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

Prima facie, it does appear to be a case of consensual relationship between two mature adults. The trial will take considerable time to conclude coupled with the fact that since the petitioner is not involved in any other criminal case, this Court deems it fit to extend the concession of bail to the petitioner during the trial. The petition is allowed and the petitioner is admitted to bail to the satisfaction of the concerned Trial Court/Duty Magistrate. However, it is made clear that any observation made herein shall not be construed as an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

March 23, 2022

J.Ram

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