

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12608-2022
Decided on : 30.03.2022

Anil Kumar @ Sunny

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. N.S.Mahal, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

This is the third petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.78 dated 03.09.2019 under Sections 377, 323, 511 IPC registered at Police Station Bilga District Jalandhar Rural as the previous petition was dismissed on merits on 23.04.2021.

Learned counsel for the petitioner has failed to satisfy this Court qua any substantial change in circumstances subsequent to the dismissal of previous petition under Section 439 Cr.PC on 23.04.2021. It has been urged by the counsel for the petitioner that since both the material witnesses i.e. the complainant and Manpreet Singh, who had allegedly seen the victim being taken away by the petitioner on his motorcycle, did not support the case of the prosecution during trial, he should be extended the concession of bail.

Learned State counsel has at the outset vehemently opposed the prayer and submissions made by counsel opposite. Learned State counsel on instructions from ASI Varinder Singh submits that the victim in this case was a mentally challenged person. He was medico-legally examined soon

after the occurrence in question and the medical evidence corroborated the factum of the victim indeed being sexually assaulted.

Heard learned counsel and perused the relevant material available on record.

This Court expresses its inability to accept the submissions made by the learned counsel for the petitioner. The factum of the prosecution witnesses, Manpreet Singh and the complainant being declared hostile cannot be said to be a material change in circumstances in the facts and circumstances of this case.

The victim admittedly is a mentally challenged person, who was subjected to the alleged sexual assault by the petitioner. Since the medico-legal report corroborates the allegations of sexual assault, it would be the victim and the doctor, who would be the material witnesses in the case in hand. They both are yet to be examined during trial.

No ground is thus, made out to accept the prayer of the petitioner for extending him the concession of bail. Accordingly, the present petition stands dismissed. 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.

(MANJARI NEHRU KAUL)
JUDGE

30.03.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No