

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

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**CRM-M-12839-2022
Date of decision: 31.03.2022**

ARJUN KUMAR	Versus	Petitioner
STATE OF HARYANA		Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Rupidner K. Thind, Advocate
for the petitioner.

Mr. Rohit Arya, DAG, Haryana
for the respondent-State.

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.11 dated 11.02.2021 lodged under Sections 363, 452 and 506 IPC and Sections 6 and 17 of the Protection of Children from Sexual Offences Act, 2012 registered at Women Police Station, District Gurugram.

Learned counsel for the petitioner submits that after dismissal of the previous petition under Section 439 Cr.P.C. on 27.08.2021 both the material witnesses i.e. the prosecutrix as well as her mother stand examined. Learned counsel, while drawing the attention of this Court to the deposition of the prosecutrix which has been annexed as Annexure P-4, submits that the prosecutrix had categorically deposed therein that she had accompanied the petitioner of her own accord without informing her parents. It has also been submitted that in her deposition she had not levelled any allegation of any wrong doing against the petitioner as a result of which she was declared hostile. Learned counsel thus submits that further incarceration of the petitioner in the circumstances would not serve any

useful purpose more so, since the prosecutrix, who is the sole material witness stands examined and the petitioner has now been in custody since 11.02.2021.

Learned State counsel on the contrary while opposing the prayer on instructions has not been able to dispute the submissions made by the counsel opposite qua the material witness i.e. the prosecutrix turning hostile during trial. He submits that no doubt the prosecutrix did not support the case of the prosecution, however, her mother supported the case of the prosecution in its entirety. He has also submitted that 15 prosecution witnesses out of 18 cited remain to be examined before the trial Court.

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

In view of the facts and circumstances as enumerated hereinabove, more so, since the prosecutrix, who is the sole material witness, has not supported the case of the prosecution, this Court deems it fit to extend the concession of bail to the petitioner, who admittedly as per instructions received by the learned State counsel is not involved in any other criminal case.

Accordingly, the instant petition is allowed. The petitioner be 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.

31.03.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No