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

**CRM-M-12616-2022 (O&M)
Date of Decision: 12.07.2022**

Ali Akbar @ Guddu

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Rupinder Kaur Thind, Advocate,
for the petitioner.

Mr. Naveen S. Panwar, D.A.G., Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

This is the second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.219 dated 30.10.2019, under Sections 346, 363, 366, 376 & 506 of the IPC, registered at Police Station Rozka Meo, District Nuh.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 30.10.2019, which is more than 2 years and 8 months and in the present case all the material witnesses have been examined including the prosecutrix as well as the complainant, who is the father of the prosecutrix. She further submitted that it is a case where the prosecutrix and the petitioner were neighbours and she herself stated that she had fled away with the petitioner on her own and while recording

statement before the police initially she had herself stated that she had a love affair with the petitioner and she had gone there voluntarily with him and thereafter, due to the pressure of the parents she retracted from her statements when she got recorded under Section 164 of the Cr.P.C. and also before the Court. Learned counsel for the petitioner also submitted that even in the medical examination, no semen was detected. She further submitted that the prosecutrix was major of the age of 19 years at the time of alleged incident. She has also submitted that in view of the aforesaid circumstances especially considering the long custody of the petitioner, he may be considered for the grant of regular bail.

On the other hand, Mr. Naveen S. Panwar, learned Deputy Advocate General, Haryana, has submitted that it is correct that the petitioner is in custody since 30.10.2019, which is more than 2 years and 8 months and all the material witnesses have since been examined including the prosecutrix and the complainant. So far as the MLR that no semen was detected, the same has not been controverted by the learned State counsel. He has however submitted that while deposing before the Court the prosecutrix has supported the prosecution version.

I have heard the learned counsel for the parties.

It is a case where the petitioner is in custody for more than 2 years and 8 months and as per the learned counsel for the parties, all the material witnesses have been examined. The prosecutrix was major of the age of 19 years at the time of incident as per learned counsel for the parties. So far as the Medical Report is concerned, it has not been controverted by the learned State Counsel that no semen was detected which was the

conclusion of the report. Apart from the same, it is not the case of the learned State counsel that in case the petitioner is released on bail then he may abscond or flee from justice or may influence the witness. Therefore, this Court is of the view that the petitioner is entitled for the grant of regular bail.

Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

12.07.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |