

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

CRM-M-13738-2022 (O&M)
Decided on : 18.07.2022

Amrit Pal Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kunwar Rajan, Advocate
 for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

CRM-24412-2022

Application is allowed as prayed for and statements of victims
PW-9 and PW-10 are taken on record subject to all just exceptions.

Main case

This is the second petition filed under Section 439 Cr.PC for
grant of regular bail to the petitioner in case FIR No.375 dated 15.10.2018
under Sections 376, 377 IPC, Section 75 of Juvenile Justice Act, 2015 and
Sections 6 and 21 of POCSO Act registered at Police Station Zirakpur
District SAS Nagar.

Learned counsel for the petitioner submits that subsequent to
the withdrawal of previous petition on 22.01.2020 (Annexure P-8) both the
victims stand examined before the trial Court and they have not supported
the case of the prosecution. Learned counsel further submits that thus, there

has been material change in circumstances, which would warrant entertaining the present petition. Learned counsel while drawing the attention of this Court to the depositions of both the victims, who stepped into the witness box as PW-9 and PW-10 submits that they failed to support the case of the prosecution with respect to the allegations levelled against the petitioner, as a result of which, they were declared hostile. Learned counsel has further drawn the attention of this Court to the testimony of third victim, who stepped into the witness box as PW-2, who too categorically deposed that the petitioner had not done anything wrong with her. Learned counsel still further submits that the factum of the petitioner being innocent finds further credence from the fact that at the time of the medical examination of the victim, the alleged history given by them was of “sexual assault” by co-accused Simranjit Singh. Learned counsel submits that all this had to be appreciated in the background of the petitioner not being named by the victims at the time of registration of the FIR in question or even being attributed any role in the crime in question. He submits that the petitioner was named much later and attributed a role in the crime in question. He submits that the petitioner has now been in custody since 13.04.2019 and only 9 out of 22 prosecution witnesses cited have been examined so far, which also include all the three material witnesses i.e. victims. He thus, prays that the petitioner be extended the concession of bail as the trial would take considerable time to conclude.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite has not been able to controvert the factum of both the material witnesses i.e. Pw-9 and PW-10 as well as PW-2 not having

alleged any wrong doing against the petitioner. Learned counsel admits that the victims PW-9 and PW-10 were declared hostile by the trial Court as they exonerated the petitioner while stepping into the witness box.

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

The petitioner has been in custody since 13.04.2019 and all the material witnesses including the victims stand examined and as already observed earlier and as conceded by the State counsel, have not supported the case of the prosecution. The trial would take considerable time to conclude as 13 prosecution witnesses remain to be examined. In the facts and circumstances as enumerated hereinabove, this Court 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.

(MANJARI NEHRU KAUL)
JUDGE

18.07.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No