

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

**CRM-M-14119-2022 (O&M)
Date of decision : 27.05.2022**

Naresh Kumar

... Petitioner(s)

Versus

State of U.T. Chandigarh

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vinod Sharma, Advocate for the petitioner.

Mr. Sumit Jain, APP for UT Chandigarh.

ALKA SARIN, J. (ORAL)

This is the third petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.0128 dated 10.07.2020 under Sections 324, 342, 326/A and 506 of the Indian Penal Code, 1860 (IPC) registered at Police Station Sector 34, U.T. Chandigarh.

The first petition being CRM-M-25351-2020 was dismissed as withdrawn on 03.09.2020 and the second petition being CRM-M-19770-2021 was dismissed vide order dated 16.07.2021.

Learned counsel for the petitioner would contend that the change in circumstances since the dismissal of the second petition for bail is that the petitioner has been in custody continuously since 13.07.2020. It is further the contention of learned counsel for the petitioner that there is no other case pending against the petitioner. Learned counsel for the petitioner has further pointed out that despite numerous opportunities, prosecution

witnesses are not coming for their examination. There are a total number of 22 witnesses and out of 22 witnesses only 2 witnesses have been examined. The complainant is also not coming forward in the present case. The *zimni* orders passed by the Trial Court have been placed on record by learned counsel for the petitioner to show that despite repeated opportunities, no witnesses were present on behalf of the prosecution.

Per contra, learned counsel for the UT Chandigarh has contended that the victim in the present case had received 20% burn injuries which were grievous in nature. Learned counsel for the UT Chandigarh on instructions from ASI Zile Singh has contended that the complainant is not coming forward. In fact, despite best efforts, the Police had not been able to trace her. The Police has also tried to contact her at the address given by her and she was not found there. Learned counsel for the UT Chandigarh is not in a position to deny that the petitioner has been in custody since 13.07.2020 and there is no other case pending against the petitioner.

Heard.

In the present case, the petitioner has been in custody since 13.07.2020 and the prosecution witnesses are not coming forward to get their statements recorded as also the complainant herself is not traceable and has not come forward for recording of her statement. There is no other case pending against the petitioner.

In view of the above-mentioned circumstances, detention of the petitioner would not serve any useful purpose. Without commenting upon the merits of the case, I deem this to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail

subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off. Pending applications, if any, also stand disposed off.

27.05.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES