

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

207

(Through Video Conferencing)

CRM-M-31567-2021

Date of decision: 11.02.2022

Balwinder Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kuldeep Singh Saini, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab
for the respondent-State.

MANJARI NEHRU KAUL, J. (ORAL)

This is the first petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.18 dated 23.03.2021 lodged under Sections 323, 342, 354-B and 34 IPC registered at Police Station Hajipur, District Hoshiarpur.

Learned counsel for the petitioner contends that the petitioner has been in custody since 19.06.2021. On completion of investigation, challan was presented and charges framed on 24.09.2021. Thereafter, the case was fixed for prosecution evidence, however, the prosecutrix despite being summoned time and again, she had intentionally been not putting in an appearance during trial to get her evidence recorded. Learned counsel further submits that since the prosecution has cited as many as 15 witnesses and none has been examined till date, his further incarceration would not serve any useful

purpose.

Learned counsel for the petitioner further submits that it was essentially on account of a matrimonial dispute between the petitioner and his wife, that the instant FIR came to be registered against him. While inviting the attention of this Court to the FIR annexed as Annexure P-1, he has submitted that a perusal of the same clearly revealed that a highly improbable and concocted version had been brought-forth by the prosecutrix that a brutal assault was carried upon her by the petitioner who had inserted a wooden stick in her private parts; thereafter she in order to escape his wrath had walked all the way from Jalandhar to Phagwara which was approximately 25 Kms. away. Learned counsel submits that it could not be believed that in view of the aforementioned alleged assault, the prosecutrix would have managed to even walk a few steps what to talk of walking all the way to Phagwara. Learned counsel has further submitted that the prosecutrix after being allegedly assaulted left for Phagwara on 17.03.2021 and was admitted in Civil Hospital, Phillaur on 19.03.2021 where she remained till 22.03.2021. However, no injury as alleged by the prosecutrix was found on her person by the attending doctor. It was only on 22.03.2021, after her discharge from the Phillaur Hospital, when she went to Civil Hosipital, Jalandhar that a wooden piece was allegedly recovered from her private parts.

Learned State counsel, on instructions from ASI Rakesh Kumar, has not been able to controvert the factum of no injury having been found on the person of the prosecutrix after she was admitted in the hospital at Phillaur on 19.03.2021. Learned State counsel has also

not been able to dispute that the prosecutrix has not put in an appearance before the trial Court for getting her evidence recorded and the trial Court has had to adjourn the case on a few occasions. Learned State counsel has, however, submitted that there are serious allegations levelled against the petitioner of subjecting the prosecutrix to extreme cruelty.

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

Be that as it may, the petitioner admittedly is not involved in any other criminal case much less of similar nature and is ready to face proceedings in accordance with law. The trial would also take considerable time to conclude as prosecution evidence has not yet commenced.

In view of the facts and circumstances as enumerated hereinabove, 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.

11.02.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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