

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

212

**CRM-M-28239-2022
Date of decision: 25.07.2022**

Hawa Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. D.P.S. Bajwa, Advocate
for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

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 cross version diary No.220-dasti dated 18.06.2020 in FIR No.249 dated 15.06.2020 at Police Station Kurukshetra University, Kurukshetra registered under Sections 363, 366-A and 506 IPC and Section 4 of the POCSO Act (Sections 370, 370-A, 384 and 389 IPC and Section 6 of the POCSO Act added and Section 4 of the POCSO Act removed lateron).

Learned counsel for the petitioner submits that subsequent to the withdrawal of the previous petition on 09.07.2021, 04 out of 26 prosecution witnesses including the victim stand examined. Learned counsel submits that the victim aged 17 years, during her deposition categorically deposed that the co-accused including the petitioner had never extorted money from Mam Chand i.e. the father of the complainant nor had she ever been sexually assaulted by Mam Chand as had been alleged in the FIR in question. In support, the learned counsel has drawn the attention of this Court to her deposition annexed

as Annexure P-4. He further submits that since the prosecutrix did not even remotely allege anything against the petitioner much less of forcing her into immoral trafficking, she was declared hostile during trial. Learned counsel submits that in fact there was a property dispute going on between Mam Chand and his son and the petitioner's father and it was on account of the said property dispute that a false and fabricated case had been planted upon him. Learned counsel submits that the petitioner has now been in custody for close to two years having been arrested on 04.08.2020 and there is no likelihood of the trial concluding in the near future as 22 prosecution witnesses remain to be examined. He further submits that further incarceration of the petitioner would serve no useful purpose as the sole material witness in this case i.e. the prosecutrix has since been examined and who as already submitted has failed to supported the case of the prosecution.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, submits that it is a case of version and cross-version and it was in the FIR case that the prosecutrix did not support the case of the prosecution as a result of which she was declared hostile. He submits that as per the allegations levelled in the cross-version which was registered on the statement of the son of Mam Chand, he had specifically alleged that the petitioner along with co-accused had been forcing the prosecutrix into immoral trafficking, by sending her to his father and thereafter had been blackmailing and extorting money from them. Learned State counsel submits that in view of the serious allegations levelled, the petitioner be not extended the concession of bail.

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

As per the allegations levelled in the cross-version, the petitioner along with co-accused had been extorting money from Mam Chand to whom the prosecutrix was allegedly sent by the petitioner and other accused. It is not disputed by learned State counsel that the prosecutrix during her deposition did not level any allegation against the petitioner of forcing her into immoral trafficking or even against Mam Chand of sexually violating her or assaulting her. The prosecutrix admittedly is the sole material witness in the case in hand with respect to the alleged immoral trafficking. She has not supported the case of the prosecution. The allegations of extortion emanate from alleged offence of immoral trafficking indulged in, by the petitioner, however, as conceded by the State counsel, the victim has not supported the case of the prosecution.

This Court, therefore, in the facts and circumstances as enumerated hereinabove, deems it fit to extend the concession of bail to the petitioner moreso as the sole material witness stands examined. 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.

25.07.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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