

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

(Proceedings through Video Conferencing)

214

CRM-M-32117-2021

Date of Decision : 02.02.2022

Vijay

..... Petitioner

Versus

State of Haryana & anr.

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Nirmal Singh, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

MANJARI NEHRU KAUL (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.180, dated 18.05.2021, registered under Sections 376(3), 457 and 506 IPC and Section 6 of POCSO Act, at Police Station Sadar Gohana, District Sonipat.

Learned counsel submits that the it is a case of false implication and the petitioner has been nominated as an accused only because he was a close relative of co-accused Rahul, who allegedly raped the complainant's daughter. While drawing the attention of this Court to the allegations levelled in the FIR, the statement of the prosecutrix recorded under Section 164 Cr.P.C. and her deposition made before the trial Court which has been annexed as Annexure P-2, learned counsel submits that there was no allegation levelled, much less, by way of a whisper against the petitioner of sexually assaulting the victim. He submits that during her deposition, the prosecutrix had, in fact, deposed that the petitioner had not even extended any threat to her. Learned counsel submits that since the victim, who is the sole material witness, stands examined before the trial Court, his further incarceration would not serve any

useful purpose.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite does not dispute the factual aspect of the allegations levelled against the petitioner. She has also not been able to controvert the submission made by the counsel opposite that the prosecutrix while stepping into the witness box had categorically stated that the petitioner had not extended any threat to her. She, on further instructions from ASI Krishan Kumar, has conceded that the victim is the sole material witness and 16 more prosecution witnesses remain to be examined.

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

In the facts and circumstances, as enumerated hereinabove, and more so when the sole material witness i.e. victim has already got her evidence recorded during trial, this Court deems it fit to extend the concession of bail to the petitioner as he has now been in custody since 20.05.2021 and the trial will take considerable time to conclude. On a query put to the learned State counsel, she, on instructions from ASI Krishan Kumar, has apprised the Court that the petitioner has clean antecedents and is not involved in any other case. The petition is allowed. The petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate.

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

02.02.2022

monika

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No