

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

108+212-A

(Through Video Conferencing)

CRM-M-28147-2020 (O&M)

Date of decision: 24.02.2022

Balram Gupta @ Baljeet Gupta

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Anil Kumar Sharma, Advocate
for the petitioner.

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

MANJARI NEHRU KAUL, J. (ORAL)

CRM-6623-2022

For the reasons mentioned in the application, the same is allowed and copies of statements of the complainant and her husband are taken on record as Annexures P-6 and P-7 respectively, subject to all just exceptions.

CRM-M-28147-2020

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.0094 dated 01.11.2019 lodged under Sections 376-D and 354-C IPC and Sections 3(1) of the SC/ST Act registered at Police Station Ladowal, District Ludhiana.

Learned counsel for the petitioner submits that totally false and fabricated allegations have been levelled against the petitioner in the FIR in question of having forcibly raped the prosecutrix after

putting her under threat. Learned counsel submits that the false implication of the petitioner stands fortified from the fact that while stepping into the witness box as PW-1, the prosecutrix did not level any allegation against the petitioner and did not support the case of the prosecution as a result of which she was declared hostile. In support, he has invited the attention of this Court to the depositions of the prosecutrix and her husband, who too did not support the case of the prosecution during trial and was declared hostile. Learned counsel submits that in the facts and circumstances, further incarceration of the petitioner, who has now been in custody since 23.11.2019, would not serve any useful purpose as 21 prosecution witnesses remain to be examined.

Learned State counsel while opposing the prayer made by counsel opposite has not been able to controvert the submissions made by counsel opposite with respect to both the material witnesses including the prosecutrix having not supported the case of the prosecution during trial. Learned State counsel has conceded that the prosecutrix and her husband were the only material witnesses in the case in hand and they stand examined.

I have heard learned counsel for the parties and perused the relevant material placed on record including the depositions of both the material witnesses annexed as Annexures P-6 and P-7.

In view of the facts and circumstances as enumerated hereinabove coupled with the fact that the material witnesses have not supported the case of the prosecutrix and the trial is unlikely to conclude in the near future, 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.

24.02.2022

(MANJARI NEHRU KAUL)

Vinay

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No