

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34886-2022
Decided on : 29.04.2022

Mohit Khan

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Pushpinder Kaushal, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, AAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

This is the second petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.438 dated 22.11.2019 under Sections 363, 376, 366-A IPC and Sections 4 and 6 of POCSO Act, registered at Police Station Zirakpur District SAS Nagar, Mohali

Learned counsel for the petitioner *inter alia* contends that the allegations levelled in the FIR in question that the petitioner lured the victim to Nalagarh on the pretext of solemnizing marriage and thereafter raped her stands demolished from the fact that both the material witnesses i.e. victim and her father while stepping into the witness box as PW-1 and PW-2 during trial did not support the case of the prosecution, as a result of which, they were declared hostile. In support of his submissions, learned counsel has drawn the attention of this Court to the deposition of both these material witnesses, which has been filed alongwith application bearing CRM No.35397 of 2021. Learned counsel further submits that the petitioner has now been in custody for more than 2 ½ years. Hence, his further

incarceration would not serve any useful purpose in the wake of aforementioned facts and circumstances coupled with the fact that the trial would take considerable time to conclude.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite on instructions from ASI Jarnail Singh has not been able to dispute the submissions made by counsel opposite qua both the material witnesses including the victim being declared hostile during trial. He has submitted that 12 prosecution witnesses have been examined and the next date fixed before the trial Court is 16.05.2022.

Heard learned counsel for the parties and perused the relevant material on record.

The petitioner has been in custody since 24.11.2019 and the trial will take sometime to conclude. In the facts and circumstances as enumerated hereinabove, more so, since the material witnesses stand examined and as already noticed above have not supported the case of prosecution, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to 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.

(MANJARI NEHRU KAUL)
JUDGE

29.04.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No