

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

CRM-M No.36739 of 2022 (O&M)

Date of decision: 15th September, 2022

Manjeet

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ashish Kumar, Advocate for the petitioner.

Mr. Rohit Arya, Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

This is second petition of the petitioner under Section 439 Cr.P.C. in case bearing FIR No.307 dated 30.10.2019 registered under Sections 365, 376D(A),452, 323, 506, 216, 34 IPC; Section 6 of the Protection of Children from Sexual Offences Act, 2012; Section 3(a)(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station IMT, Rohtak.

Learned counsel for the petitioner submits that subsequent to the withdrawal of the previous petition seeking similar relief on 10.11.2021, all the three material witnesses i.e. the victim as well as her uncle and aunt, have been examined before the trial Court and while stepping into the witness box, they did not support the case of the prosecution, as a result of which they were declared hostile.

Learned counsel further submits that the petitioner has now been in custody for more than two years and 13 prosecution witnesses remain to be examined, and hence, there is no likelihood of the trial concluding in the near future. Learned counsel also submits that since all the material prosecution witnesses have been examined, further incarceration of the petitioner would serve no useful purpose. He further submits that similarly placed co-accused have since been extended the concession of bail vide orders dated 27.07.2022.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions has not been able to controvert the submission of the counsel opposite that all the three material witnesses including the victim had failed to support the case of the prosecution, as a result of which they had been declared hostile. He however, submits that in her statement recorded under Section 164 Cr.P.C., the victim had specifically levelled allegations of sexual assault on her by the petitioner and the two other co-accused. Learned State counsel further submits that in case the petitioner is extended the concession of bail, there is every likelihood that he could try to influence the remaining witnesses.

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

In the facts and circumstances of the case in hand as enumerated herein above, particularly when the material witnesses including the victim have not supported the case of the prosecution, this

Court concurs with the submissions made by learned counsel for the petitioner that further incarceration of the petitioner would serve no useful purpose. This Court deems it fit to allow the instant petition as the petitioner has been in custody since 17.08.2020 and 13 prosecution witnesses are yet to be examined. 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

September 15, 2022

rps

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