

Sr.No.213

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

CRM-M-41071-2022

Date of decision:13.09.2022

Aarti Devi

... Petitioner

versus

State of Punjab

... Respondent

Coram: Hon'ble Mrs. Justice Manjari Nehru Kaul

Present: Mr. Satnam Singh Sishodia, Advocate for
Mr. Naresh Paul Chandel, Advocate
for the petitioner.
Mr. Teevar Sharma, AAG, Punjab

Manjari Nehru Kaul, J.(Oral)

The present second petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.222 dated 27.08.2021 registered under Sections 363, 363-A, 120-B of the Indian Penal Code, 1860 at Police Station Anaj Mandi Patiala.

Learned counsel for the petitioner submits that subsequent to the withdrawal of the previous petition on 13.12.2021 charges had been framed and co-accused with whom the victim aged about 17 years had allegedly eloped had been acquitted by the Juvenile Justice Board. Learned counsel for the petitioner further submits that the petitioner has been falsely

implicated in the case in hand for allegedly conniving with her son co-accused Abhinandan and luring the victim aged 17 years on the pretext of solemnizing her marriage with her son. He submits that false implication of the petitioner finds credence from the fact that while getting her statement recorded under Section 164 Cr.P.C, the victim did not allege any wrong doing on the part of the accused including the petitioner and rather stated that she had accompanied co-accused i.e. son of the petitioner of her own accord. He still further submits that though the charges were framed way back on 18.02.2022 however, trial has come to a virtual stand still as none of the prosecution witnesses including the material witnesses have been putting in appearance before the trial Court for getting their evidence recorded despite repeated summons having been issued to them. He submits that in the aforementioned facts and circumstances more so coupled with the fact that the co-accused already stands acquitted, further incarceration of the petitioner would serve no useful purpose.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite on instructions from ASI Ranjeet Singh has not been able to controvert the submissions that the victim had not alleged any wrong doing against the petitioner and had further also stated that she had accompanied co-accused Abhinandan of her own accord. Learned

State counsel has conceded that the trial has not been able to make any head way despite repeated summons including bailable warrants having been issued to the prosecution witnesses, they had failed to put in appearance.

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

The petitioner has been in custody for more than a year having been arrested on 01.09.2021. In the facts and circumstances as enumerated hereinabove, coupled with the fact no prosecution witness out of the total 15 cited has been examined yet, there is no likelihood of the trial concluding in the near future. This Court therefore, deems it appropriate to allow the instant petition and admit the petitioner to bail subject 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.

13th September, 2022

Shivani Kaushik

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No

[MANJARI NEHRU KAUL]

JUDGE