

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

CRM-M No.41521 of 2022

Date of decision: 9th November, 2022

Rajeev @ Raju

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sumit Kumar, Advocate for
Mr. Baljeet Beniwal, Advocate for the petitioner.
Mr. Rohit Arya, Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

This is second petition filed by the petitioner under Section 439 Cr.P.C. in case bearing FIR No.805 dated 09.12.2018 registered under Sections 498-A, 376, 506, 34, 120-B IPC at Police Station Meham, District Rohtak.

In compliance of the order dated 16.09.2022, learned State counsel has filed reply by way of an affidavit of Harmendra Kumar Meena, Addl. Superintendent of Police, Meham, District Rohtak, which is taken on record subject to just exceptions.

Learned counsel for the petitioner, inter alia contends that the false implication of the petitioner in the FIR in question is evident from the fact that the sole material witness i.e. the complainant did not support the case of the prosecution when she stepped into the witness

box as PW-2. While inviting attention of this Court to the FIR in question, which has been annexed as (Annexure P-1), learned counsel submits that a bare reading of the allegations leveled therein also clearly indicates that the allegations of sexual molestation have not been leveled against the petitioner, but against her father in law, who had since expired. Still further, he submits that the petitioner has now been in custody for a little more than 3 years, having been arrested on 01.11.2019 and there is no likelihood of the trial concluding in the near future as only four prosecution witnesses out of total nine cited, have been examined.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, submits that the petitioner is a man of criminal antecedents, as he was involved in six other criminal cases. Learned State counsel, in support has invited the attention of this Court to the reply filed by way of an affidavit of Harmendra Kumar Meena, Addl. Superintendent of Police, Meham, District Rohtak, wherein the details of the other criminal cases registered against him have been given. Learned State counsel, however, has not been able to controvert the submissions made by the counsel opposite that the sole material witness i.e. the complainant, while stepping into the witness box as PW-2 did not support the case of the prosecution.

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

Though the prayer for bail was opposed by the learned State counsel, however, on a pointed query put to him, he on instructions, has very fairly conceded that the allegations attracting mischief of Section 376 IPC have not been attributed to the petitioner and he has been attributed only allegations under Sections 498-A IPC.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner as his further incarceration would serve no useful purpose; more so when the sole material witness has failed to support the case of the prosecution before the trial Court. Hence, the instant petition is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

November 9, 2022

rps

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