

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

CRM-M No.46367 of 2022 (O&M)
Date of decision: 22nd November, 2022

Rani

... Petitioner

Versus

UT Chandigarh

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Jayender Singh, Advocate for the petitioner.

Mr. A.M. Punchhi, Advocate
PP for UT Chandigarh/respondent.

MANJARI NEHRU KAUL, J. (ORAL)

This is third petition filed by the petitioner under Section 439 Cr.P.C. in case bearing FIR No.20 dated 26.02.2021 under Sections 323, 354-A, 354-C, 376, 506, 509, 120-B IPC registered at Police Station Mouli Jagran, UT Chandigarh.

Learned counsel for the petitioner submits that subsequent to the withdrawal of the previous petition seeking bail under Section 439 Cr.P.C. on 08.11.2021, the prosecutrix aged 25 years stands examined. He further submits that while stepping into the witness box as PW-7, the prosecutrix failed to support the case of the prosecution qua the petitioner, who also happens to be her maternal aunt and as a result of which she was declared hostile. Learned counsel submits that the petitioner, who is a lady, has now been in custody for one year and eight months, and there is no likelihood of the trial concluding in the near future, as eight more prosecution witnesses remain to be examined. It has also been submitted that the factum of the prosecutrix

not supporting the case of the prosecution while stepping into the witness box, rather lends credence to the false implication of the petitioner, and still further, in the given circumstances, further incarceration of the petitioner would serve no useful purpose.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions has not been able to dispute that the prosecutrix did not support the case of the prosecution qua the petitioner, while stepping into the witness box, and as a result of which she was declared hostile. He, however, submits that the petitioner was an active participant in the crime in question as it was at her behest that the main accused Brij Pal had committed rape upon the prosecutrix.

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

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner. The petition as such 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 22, 2022

rps

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