

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.224

Case No. : Crl. Misc. No.M-52417 of 2021

Date of Decision : January 11, 2022

Deepak Petitioner
vs.
State of Haryana and others Respondents

**CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.
(Through Video Conferencing)**

Present : Mr. Chanderhas Yadav, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

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MANJARI NEHRU KAUL, J. (Oral) :

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail in FIR No.112 dated 22.05.2021, under Sections 363, 366, 376, 468, 471, 37 IPC, Section 4 of the POCSO Act, 2012 and Section 9 of the Children Marriage Prohibition Act, 2006, registered at Police Station Bahu Akbarpur, District Rohtak.

Learned counsel for the petitioner submits that false implication of the petitioner in the FIR in question, which was registered at the instance of the mother of the victim, is evident from the fact that the mother of the victim, while stepping into the witness box, did not support the case of the prosecution in its entirety and rather, from her deposition, it is very evident that the petitioner had been falsely implicated in the case in hand, as there were glaring discrepancies between her deposition and that of her husband, who while stepping into the witness-box during trial did not support the case of the prosecution, as a result of which, he was declared hostile. In support, he has drawn the attention of this Court to their

respective depositions annexed as Annexures P-8 to P-10. Still further, it has been submitted that the victim too had come up with contradictory versions while getting her statement recorded under Section 164 Cr.P.C. and thereafter, while stepping into the witness box as PW-1, which further lent credence to a false and fabricated case having been planted upon the petitioner. In support, learned counsel had drawn the attention of this Court to the deposition of the victim aged about 17 years, annexed as Annexure P-8. Learned counsel further submits that even qua the date of birth of the victim, two birth certificates had been supplied by the complainant and in one of them her date of birth was 28.03.2003, which proved that she was a major on the date of alleged occurrence. Learned counsel, therefore, submits that since all the three material witnesses stand examined before the trial court, further incarceration of the petitioner would serve no useful purpose, as 20 more prosecution witnesses remain to be examined.

Per contra, learned State counsel, on instructions from ASI Sunita, while opposing the prayer made by learned counsel for the petitioner, has not been able to controvert the submissions made by the counsel opposite that the father of the victim had been declared hostile during trial and the other two material witnesses, i.e. the complainant-mother and the victim herself, had not supported the case of the prosecution in its entirety. Learned State counsel has conceded that all the material witnesses stand examined in the case in hand.

I have heard learned counsel for the parties and perused the material on record including the deposition of the material witnesses before the trial court.

The petitioner has been in custody since 23.06.2021 and the

trial is unlikely to conclude in the near future as 20 prosecution witnesses remain to be examined.

In the facts and circumstances, as enumerated hereinabove, the instant petition is allowed and the petitioner is admitted to bail to the satisfaction of the concerned Trial Court/Duty Magistrate. However, it is made clear that any observation made herein shall not be construed as an expression of opinion on the merits of the case.

January 11, 2022

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(MANJARI NEHRU KAUL)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No</i>