

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

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(Through Video Conferencing)

CRM-M-51774-2021

Date of decision: 28.02.2022

Anil Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. R.N. Lohan, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana
for the respondent-State.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking concession of regular bail in case FIR No.12 dated 27.01.2021 lodged under Sections 376(2)(n) and 376D IPC registered at Police Station Garhi, District Jind.

Learned counsel for the petitioner, while inviting the attention of this Court to the allegations levelled in the FIR which has been reproduced in the body of the paper book, submits that an unbelievable story has been brought forth by the prosecutrix. He submits that as per the allegations levelled, on 26.01.2021, the prosecutrix had gone to the Government Hospital at Narwana for getting the birth certificate of her younger son, who was born on 20.09.2007, however, as it was a national holiday, she was unable to get the birth certificate and since it was also late, she checked into a hotel owned by co-accused Sandeep, who then forced himself upon her and committed rape. Learned counsel submits that it was also alleged that the main accused Sandeep had thereafter called the petitioner and

another person, who too then raped the prosecutrix. Learned counsel vehemently argued that the story put forth by the prosecutrix could not be digested as admittedly no offices were functioning on the date of alleged occurrence as it was a national holiday. He further submitted that subsequently on 05.08.2021 vide Annexure P-1, the prosecutrix gave a duly sworn in affidavit wherein she stated that she was not in her senses and she had been administered some intoxicant by the accused Sandeep as a result of which she levelled false allegations of rape against the petitioner. Learned counsel further submitted that the petitioner had been now in custody since 03.08.2021 and there was no possibility of the trial concluding in the near future as the prosecution evidence was due to commence only on 15.03.2022. It was also submitted that similarly situated co-accused Om Parkash had been extended the concession of anticipatory bail by this Court vide order dated 04.02.2022. Learned counsel submitted that investigation was complete, charges framed coupled with the fact that the petitioner was not involved in any other criminal case much less of similar nature, hence, his further incarceration would serve no useful purpose.

Per contra, learned State counsel on instructions from Inspector Dharamveer, has not been able to controvert the factum of the prosecutrix indeed having given duly sworn in affidavit (Annexure P-1) wherein she had exonerated the petitioner of any wrong doing. Learned State counsel has also conceded that the role of the petitioner is similar to that of co-accused Om Parkash, who has since been extended the concession of anticipatory bail.

I have heard learned counsel for the parties and perused

the relevant material placed on.

In view of the facts and circumstances as enumerated hereinabove wherein in her duly sworn in affidavit (Annexure P-1) the prosecutrix has not levelled allegations of rape against the petitioner coupled with the fact that the trial is going to take considerable time to conclude, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the instant petition is allowed. The petitioner be admitted to bail 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.

28.02.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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