

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

CRM-M No.55401 of 2022

Date of decision: 5th December, 2022

Sandeep Kumar ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ajay Arora, Advocate for
Ms. Divya Narua, Advocate for the petitioner.

Mr. Rohit Arya, Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J.

This is second petition of the petitioner under Section 439 Cr.P.C. in case bearing FIR No.118 dated 08.04.2021 under Sections 376, 450, 506 IPC pertaining to Police Station Rania, District Sirsa.

Learned counsel for the petitioner submits that a perusal of the allegations leveled in the FIR in question, which has been annexed as Annexure P-1, leaves no manner of doubt that a highly unbelievable version has been brought forth therein by the prosecutrix against the petitioner, who happens to be her brother-in-law.

Learned counsel submits that the false implication of the petitioner in the crime in question is evident from the fact that it was after a gap of 16 days from the date of alleged crime, when she was raped by the petitioner, that the FIR in question was registered. It has been further submitted that it has also not been disputed by the

prosecutrix while stepping into the witness box that there was a land dispute between the husband of the prosecutrix and the petitioner. Learned counsel submits that in the circumstances, it becomes abundantly clear that the prosecutrix had come up with a false and fabricated story, for reasons but obvious. Learned counsel has further submitted that it could not be believed in the wake of the admission of the prosecutrix herself that there was a civil dispute pending between the parties and the relations between them were strained, that the petitioner would have still mustered courage not only to go to the house of the prosecutrix during the day but also commit the crime in question. Learned counsel for the petitioner has also submitted that the false implication of the petitioner in the crime in question finds further credence from the fact that no injury was found on the person of the prosecutrix at the time of her medical examination. He submits that the petitioner has now been in custody since 21.04.2021 and four out of 14 prosecution witnesses, including the prosecutrix, stand examined. Learned counsel submits that since the sole material witness i.e. the prosecutrix has already been examined, further incarceration of the petitioner would serve no useful purpose, more so when there is no likelihood of the trial concluding in the near future.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions submits that there are serious allegations leveled against the petitioner of having

intruded into the house of the prosecutrix and thereafter, after entering the bathroom, violated her person. He has, however, not been able to controvert the factum of there indeed being a land dispute between the parties and also no injury having been found on the person of the prosecutrix. Learned State counsel has also not disputed, on instructions, that the prosecutrix, is the sole material witness, and stands examined.

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

Since the sole material witness, i.e. the prosecutrix, stands examined and ten other prosecution witnesses remain to be examined, this Court deems it fit to allow the present petition as the trial will take considerable time to conclude. 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

December 5, 2022

rps

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