

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

CRM-M No.58442 of 2022

Date of decision: 21st December, 2022

Kulwant Singh @ Kanta

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Bhupinder K. Bhangu, Advocates for the petitioner.

Mr. Gurpreet Singh, Addl. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

This is third petition of the petitioner filed under Section 439 Cr.P.C. in case bearing FIR No.16 dated 01.02.2021 under Sections 376, 323, 506, 365, 342 IPC and Section 3 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Sadar Kapurthala, District Kapurthala, Punjab.

Learned counsel appearing for the petitioner inter alia contends that a totally concocted version has been brought forth against the petitioner in the FIR in question. She further submits that in fact the complainant has questionable antecedents which is evident from the fact that she got another FIR bearing No.100 dated 29.09.2020 under Sections 354-A, 354-D, 506, 509 IPC and Section 67 of IT Act at Police Station Patara registered against one Jasbir Singh, wherein also

she had levelled almost similar allegations against another person. She submits that the instant case is no different. While inviting the attention to this Court to the FIR, which has been annexed as Annexure P-1, learned counsel submits that the prosecutrix who is about 32 years old, was allegedly sexually assaulted and threatened by the petitioner after she declined his marriage proposal. Learned counsel for the petitioner submits that the relations between the prosecutrix and the petitioner were on the face of it, consensual in nature, else why would she despite being allegedly threatened of dire consequences by him, would have still chosen to accompany him to various places. It has further been submitted that the petitioner has now been in custody since 01.02.2021 and there is no likelihood of the trial concluding in the near future, as 14 more prosecution witnesses out of the 16 cited remain to be examined. Learned counsel has still further submitted that the prosecutrix, who is the sole material witness, has been examined by the trial Court, hence in the 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, submits that no doubt the prosecutrix had lodged FIR bearing No.100 dated 29.09.2020 against another person by the name of Jasbir Singh, wherein similar allegations had been levelled by the prosecutrix, however, in the case in hand, the prosecutrix had been sexually assaulted and threatened by the petitioner of dire consequences. Learned State counsel has, on instructions, not disputed that the prosecutrix is the sole material

witness and she has been examined before the trial Court. He, on further instructions, submits that the next date fixed before the trial Court is 09.01.2023 when a couple of more prosecution witnesses are likely to be examined. On a pointed query by this Court, learned State counsel on instructions has apprised that the petitioner is not involved in any other criminal case.

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

In the facts and circumstances as enumerated hereinabove, since the sole material witness, i.e. the prosecutrix aged 32 years, has been examined, this Court deems it fit to allow the instant petition as the trial will take considerable time to conclude. Resultantly, the 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 nothing contained hereinabove shall be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 21, 2022

rps

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