

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

CRM-M No.6244 of 2022
Date of decision: 16th August, 2023

Dharambir

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Harparteek S. Sandhu, Advocate for the petitioner.
Mr. Rahul Mohan, Sr. Dy. Advocate General, Haryana
for the respondent/State.
Ms. Sehaj Sandhawalia, Advocate for the complainant.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 439 Cr.P.C. in case FIR No.95 dated 18.09.2019 under Sections 376, 376(D), 344, 406, 452, 506 IPC; Section 6 of Protection of Children from Sexual Offences Act, 2012; and Sections 9 and 10 of the Prohibition of Child Marriage Act, 2006 registered at Police Station Women, District Kaithal. This is the third petition filed by the petitioner.

2. On a pointed query put to the learned counsel for the petitioner as to what was the material change in circumstances subsequent to the withdrawal of the previous petition, wherein similar relief had been sought, he has submitted that both the material

witnesses, while deposing during trial, had not supported the case of the prosecution. Learned counsel thus, vehemently submits that thus, it is abundantly clear that a false and fabricated case has been planted upon the petitioner for allegedly violating the person of the victim, and also extending threats to her. Learned counsel further submits that in the above facts and circumstances, further incarceration of the petitioner, who has been in custody since 20.09.2019, would serve no useful purpose as 12 prosecution witnesses still remain to be examined.

3. Per contra, learned State counsel assisted by learned counsel for the complainant, while opposing the prayer and submissions made by the counsel opposite, on instructions, has not been able to controvert that both the material witnesses i.e. the complainant (mother of the victim) as well as the victim, while stepping into the witness box, had not supported the case of the prosecution, as a result of which they were declared hostile. Learned State counsel, however submits that in her statement recorded under Section 164 Cr.P.C., the victim had reiterated the allegations levelled in the FIR against the petitioner. On a pointed query put to the learned State counsel qua the antecedents of the petitioner, he, on instructions has apprised the Court that the petitioner is not involved in any other criminal case, much less a case of similar nature.

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

5. The petitioner has now been in custody since 20.09.2019. Both the material witnesses including the victim stand examined and as not disputed by the learned State counsel as well as the learned counsel for the complainant, both these witnesses have turned turtle and declared hostile by the trial Court. The trial is not likely to conclude in the near future as 12 out of the 14 prosecution witnesses still remain to be examined. In the facts and circumstances as enumerated hereinabove, this Court thus 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 observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

August 16, 2023
rps

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