

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

201

CRM-M-5609-2023

Date of decision:08.02.2023

Harmesh Singh @ Meshi

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. K.S. Brar, Advocate for the petitioner.

Mr. Sanish Girdhar, AAG, Punjab.

SUVIR SEHGAL J. (ORAL)

This is the second petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.155, dated 14.09.2012 registered for the offences under Sections 323, 376 (g), 506 and 34 of IPC, 1860, at Police Station Shahkot, District Jalandhar.

Criminal law has been set in motion on the basis of statement of a 20 years old married lady (hereinafter referred to as “the prosecutrix”), wherein she stated that on 11.09.2012, when she was waiting for a public transport at bus stand Shahkot to go back to her maternal home, Baldev Singh and Harmesh Singh @ Meshi (present petitioner) came on a motorcycle and offered her a lift. As they belonged to her maternal village, she trusted them and sat on their motorcycle. Instead of taking her home, they took her to a tubewell near the Satluj river, where both the brothers sexually exploited her during the night. The next day also they repeated the objectionable activity and threatened that they will eliminate her, in case, she confides in her family. Gathering

courage, after a few days, she narrated the incident to her parents, who got her admitted in a hospital.

Counsel for the petitioner has contended that the star prosecution witness has been examined and she has not supported the case of the prosecution. By referring to her testimony, Annexure P-3, he urges that she has refused to identify the petitioner. Counsel submits that the petitioner, who is in custody since 25.05.2022, deserves to be enlarged on bail as the trial is likely to take time to conclude.

Per Contra, learned State counsel, upon instructions from ASI Slinder Singh, has opposed the petition and has submitted that there are serious allegations against the petitioner, who has not only been named in the FIR, but also in the statement of the prosecutrix recorded under Section 164, Cr.P.C. He submits that Baldev Singh, brother of the petitioner, has been tried and convicted by the trial court for offence under Section 376, IPC, and his appeal is pending before this Court. State counsel submits that the petitioner evaded the process of law for 09 years and was declared a Proclaimed Offender. As per his instructions 01 out of 21 prosecution witnesses has been examined.

I have heard counsel for the parties.

The prosecutrix is the star witness of the prosecution, who has been examined. The prosecution is yet to examine 20 more witnesses and trial is at a nascent stage. Petitioner has been in detention for the last more than 07 months and there is remote possibility of an early conclusion of the trial. Keeping in view the above circumstances, this Court is inclined to accept the prayer made in the petition.

It may be mentioned that the first petition (CRM-M-36636-2022) was withdrawn, after arguments, on 02.12.2022 and the prosecutrix has been examined thereafter on 06.01.2023. As there is a change in circumstances, there is no obstacle in entertaining and accepting the prayer made in the second petition.

Without advertng to the merits or de-merits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail on furnishing **heavy bail/surety bonds** to the satisfaction of the Trial Court/Duty Magistrate concerned.

It will be open to the Trial Court/Duty Magistrate to impose any other condition it deems appropriate to foreclose the possibility of any future default by the petitioner.

It is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

08.02.2023
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No