

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

CRM-M No.6234 of 2023

Date of decision: 10th February, 2023

Ram Pal

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Kuldeep S. Siwach, Advocate for the petitioner.

Mr. Amit Aggarwal, Dy Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J.

This is third petition of the petitioner filed under Section 439 Cr.P.C. in case bearing FIR No.656 dated 08.08.2021 under Sections 354-A(1) IPC (Sections 354-B & 376 IPC added later on) registered at Police Station Sadar Hisar, District Hisar.

On a pointed query put to the learned counsel for the petitioner as to what was the material change in circumstances subsequent to withdrawal of the previous petition on 18.10.2022, wherein similar relief had been sought, he has merely stated that other than the petitioner having been now in custody since 08.08.2021, one application under Section 319 Cr.P.C. had been moved for summoning of the additional accused. Learned counsel has thus, submitted that in the circumstances, the trial would take considerable time to conclude and further incarceration of the petitioner would be totally unjustified. Learned counsel has further submitted that a totally false and frivolous

case has been planted upon the petitioner which is evident from the fact that there was an unexplained delay of nine days in lodging of the FIR in question from the date of alleged occurrence.

While inviting the attention of this Court to the allegations levelled in the FIR in question, which has been annexed as Annexure P-1, learned counsel has submitted that while getting her statement recorded under Section 164 Cr.P.C., the prosecutrix had changed her version which created a serious dent in the case of the prosecution.

Per contra, learned State counsel has opposed the prayer and submissions made by the counsel opposite. He, on instructions, has submitted that there was no material change in circumstances which would warrant entertaining the instant petition. He has submitted that mere filing of an application under Section 319 Cr.P.C., which was still pending consideration, could not be said to be a material change in circumstances. Learned State counsel, while controverting that the prosecutrix had been changing her version time and again, has submitted that both the material witnesses, including the prosecutrix who was a young widow, while stepping into the witness box, had reiterated the allegations levelled against the petitioner during trial.

Learned State counsel has submitted that the petitioner along with the co-accused had been continuously indulging in inappropriate behaviour and on the fateful day, when the prosecutrix had gone to the fields to cut the crop, the petitioner pounced upon her and violated her person. He has submitted that after the prosecutrix returned home, she narrated the occurrence to her young son who then

called up co-accused Subhash by asking him to tell the petitioner to stop harassing his mother i.e. the prosecutrix. It was further submitted that the delay in lodging of the FIR could not be said to be fatal to the case of the prosecution in the wake of the prosecutrix being a hapless widow with young children.

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

This Court is not inclined to extend concession of bail to the petitioner in view of the serious allegations levelled against him in the FIR in question. Furthermore, learned counsel for the petitioner has failed to bring to the notice of this Court any material change in circumstances after withdrawal of the previous petition on 18.10.2022. Mere filing of an application under Section 319 Cr.P.C., which as apprised by the learned State counsel is still pending consideration, cannot be said to be a material change in circumstances which would entitle the petitioner to concession of bail. The instant petition being devoid of any merit stands dismissed. 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

February 10, 2023
rps

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