

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

214

**CRM-M-9951-2023
Date of decision: 01.03.2023**

Gurpreet Singh @ Tony

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sachin Ohri, Advocate
for the petitioner.

Mr. Sanish Girdhar, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') in case FIR No.71 dated 29.05.2021 under Sections 376 and 506 of the Indian Penal Code, 1860 registered at Police Station Division No.I, Pathankot, District Pathankot.

The previous petition seeking similar relief under Section 439 of the Cr.P.C. was dismissed as withdrawn on 18.08.2022. Learned counsel for the petitioner submits that thereafter the prosecutrix stands examined.

Learned counsel for the petitioner, while drawing the attention of this Court to the contents of the FIR in question which has been annexed as Annexure P-1, submits that as per the allegations levelled therein, the prosecutrix, after being blackmailed by the petitioner had been made to establish physical relations with him and also made to accompany the petitioner to various places. Learned counsel has vehemently argued that the prosecutrix was a mature lady

of 20 years of age and a perusal of both the allegations levelled in the FIR as well as her deposition before the Trial Court annexed as Annexure P-4 makes it amply clear that she had been in a consensual relationship with the petitioner, who admittedly is her immediate neighbour. A prayer has, therefore, been made that since the sole material witness i.e. the prosecutrix stands examined and 15 prosecution witnesses still remain to be examined, the petitioner be extended the concession of bail *moreso* since he has been in custody for almost 02 years having been arrested on 29.05.2021.

Per contra, learned State counsel while opposing the prayer made by the counsel opposite, on instructions, has not been able to dispute that the sole material witness i.e. the prosecutrix stands examined and as many as 15 prosecution witness remain to be examined.

On a pointed query put to the learned State counsel as to whether the petitioner was involved in any other criminal case, he on instructions has replied in the negative.

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

Prima facie it appears to be a consensual relationship between the prosecutrix and the petitioner. Further incarceration of the petitioner would not serve any useful purpose as the sole material witness i.e. the prosecutrix, stands examined. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

Accordingly, the instant petition is allowed. The petitioner

be admitted to bail to the satisfaction of the Trial Court/Duty Magistrate concerned. 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.

01.03.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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