

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

203

CRM-M-9920-2023

Date of decision:01.03.2023

Amlesh Yadav

... Petitioner

Vs.

State of U.T., Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. G.S. Sandhu, Advocate for the petitioner.

Ms. Vasundhara Dalal Anand, Addl. P.P., U.T., Chandigarh.

SUVIR SEHGAL J. (ORAL)

This is the third petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.157, dated 16.11.2019 registered for the offences under Sections 66-C and 67-A of Information Technology Act, 2000, however, Sections 376, 328, 354-C and 120-B of IPC, 1860 and Section 04 of Indecent Representation of Women (Prohibition) Act, 1986, were added later on, at Police Station Sarangpur, Chandigarh, Annexure P-1.

Version of the prosecution is that FIR, Annexure P-1, came to be registered on the statement of G.K. (name withheld), brother of the prosecutrix, when he was shown objectionable videos of the prosecutrix at the police station.

Counsel for the petitioner contends that petitioner is the friend of estranged husband of the prosecutrix and he has been falsely implicated. By making a reference to the statements of the prosecutrix recorded under Section 161 of Cr.P.C., Annexures P-3 and P-4 as well as her testimony, Annexure P-5, counsel contends that there are major contradictions. He submits that the husband of the prosecutrix as well as the other co-accused have been enlarged on bail by this Court. He submits that the earlier two petitions preferred by the

petitioner were withdrawn on 07.02.2022 and 29.11.2022, Annexures P-11 and P-12 as the prosecutrix had not been examined. He asserts that the petitioner, who is in detention since 06.08.2021, deserves to be enlarged on bail as he enjoys a clean past and the material prosecution witnesses i.e. the prosecutrix and the complainant, have been examined.

Opposing the petition, learned Additional Public Prosecutor, upon instructions from ASI Varinder Singh, submits that the petitioner is an accused of a heinous crime against women. She submits that an objectionable video has been recovered from the petitioner, which he shared with the co-accused. Upon further instructions, she submits that 08 out of 30 prosecution witnesses have been examined. She has specific instructions to state that both the vital witnesses have stepped into the witness-box.

Having considered the submissions made by counsel for the parties, this Court is of the opinion that the veracity of the allegation levelled against the petitioner would be tested before the trial court. Petitioner, who is in custody for the last more than 18 months would be entitled to be released on bail as the trial is not likely to conclude in the near future as 22 more prosecution witnesses are yet to be examined.

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

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

01.03.2023

(SUVIR SEHGAL)
JUDGE

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