

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

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**CRM-M No. 34973 of 2021
Date of Decision : 20.1.2023**

Rohit Kumar

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Vipin Mahajan, Advocate, for the petitioner
Mr. Kunal Vinayak, AAG, Punjab
Mr. Manjeet Singh, Advocate, for the complainant

TRIBHUVAN DAHIYA J. (ORAL):

This is a petition under Section 439 Cr.P.C. seeking regular bail to the petitioner in case FIR No.7 dated 7.4.2018 under Sections 376, 376-D, 292, 34 IPC and Section 67 of IT Act, 2000, registered at Police Station Dhar Kalan, District Pathankot.

In the FIR the complainant has leveled allegations of sexual assault against Harish Kumar Handa, the petitioner and another unidentified person.

Learned counsel for the petitioner contends that both, prosecutrix and the petitioner, are married to their spouses. The FIR has been lodged on false allegations, only on account of a financial dispute. A Special Investigation Team (SIT) was constituted in the case, and vide enquiry report dated 12.3.2020 (Annexure P-6), Harish Kumar Handa and the petitioner were declared innocent. It was directed that a cancellation report be prepared and supplementary challan under Section 173 Cr.P.C. be filed in the Court. However, the same was not accepted and the trial continued. He further submits that only one out of twenty four witnesses have been examined. On an application filed by the complainant under Section 319 Cr.P.C., one Ajay

Kapoor has been summoned as an additional accused. On his petition, this Court has stayed proceedings before the trial Court. Accordingly, the trial is not progressing and the petitioner remains in custody since 28.7.2021.

It is also a matter of record that the main accused Harish Kumar Handa has already been granted regular bail by this Court vide order dated 4.12.2020.

Learned State counsel, on instructions from ASI Ajay Sharma, is not in a position to dispute the facts enumerated above. However, he opposes the grant of bail on the ground that trial is already going on and witnesses have not been examined.

In this background when the trial of the case is not progressing and the co-accused has already been released on bail, no useful purpose would be served by keeping the petitioner in custody.

Accordingly, the petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

(TRIBHUVAN DAHIYA)
JUDGE

20.1.2023

Ashwani

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