

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34553-2021

Decided on : 24.03.2023

Gurwinder Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. G.S.Bal, Sr. Advocate with
Mr. J.S.Randhawa, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

Mr. Atul Jain, Advocate for the complainant.

Manjari Nehru Kaul, J.(Oral)

This is the second petition filed under Section 439 Cr.PC for grant of regular bail to the petitioner in case FIR No.42 dated 28.06.2019 under Sections 376/384 IPC registered at Police Station Talwandi Chaudhrian District Kapurthala.

Learned Senior counsel *inter alia* contends that a perusal of the contents of the FIR in question leaves no manner of doubt that the petitioner as well as the prosecutrix were in a consensual relationship. Learned Senior counsel submits that the factum of a false and fabricated case having been planted upon the petitioner finds credence from the fact that while stepping into the witness box as PW-1 the prosecutrix did not support the case of the prosecution, as a result of which, she was declared hostile. In support, learned Senior counsel has placed on record a copy of the deposition of the prosecutrix wherein the said fact stands reflected. Learned Senior counsel thus, prays that in

the aforementioned circumstances, more so, as the petitioner has been in custody since 15.07.2020 and 16 prosecution witnesses remain to be examined, the petitioner be extended the concession of bail as his further incarceration would serve no useful purpose.

Per contra, learned State counsel while opposing the prayer made by counsel opposite on instructions from ASI Gurmail Singh has not been able to controvert the submissions made qua the prosecutrix, who admittedly was the sole material witness, having been turned hostile during trial.

On a pointed query put to learned counsel for the State qua the antecedents of the petitioner, he on instructions has apprised the Court that the petitioner is not involved in any other case much less of similar nature.

Heard learned counsel for the parties and perused the relevant material on record.

In the facts and circumstances as enumerated hereinabove coupled with the fact that the petitioner has been in custody since 15.07.2020 and the trial shall take considerable time to conclude as 16 prosecution witnesses remain to be examined, this Court deems it appropriate to extend the concession of bail to the petitioner. Accordingly, the present petition is allowed. The petitioner be admitted to bail to the satisfaction to 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.

24.03.2023
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No