

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

107+214

CRM-M-36703-2022 (O&M)

Date of decision: 04.05.2023

Vikramjit Singh @ Vicky

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Kuljit Singh Bal, Advocate
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-18148-2023

1. For the reasons mentioned in the application, the same is allowed and copies of statements of the prosecution witnesses are taken on record as Annexures P-5 to P-9 subject to all just exceptions.

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2. The petitioner has filed the instant petition (second) seeking concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.46 dated 29.03.2018 under Sections 363/366A /368/376 (added later) of the IPC and Sections 3/4 of the POCSO Act registered at Police Station Bhikhiwind, District Tarn Taran.

3. Learned counsel for the petitioner *inter alia* contends that the false implication of the petitioner in the case in hand finds credence from the fact that while stepping into the witness box all the material witnesses including the victim who was stated to be 16 years of age at

the time of the alleged occurrence, had failed to support the case of the prosecution as a result of which all these witnesses were declared hostile during trial. In support, learned counsel has drawn the attention of this Court to the testimonies of the material witnesses including the victim which have been annexed as Annexures P-5 to P-9. Learned counsel submits that since the petitioner has now been in custody for more than four and a half years having been arrested on 15.10.2018, his further incarceration would be of no avail moreso as the trial would take some time to conclude.

4. Per contra, learned State counsel while opposing the prayer made by the counsel opposite, on instructions from ASI Tasvir Singh, has not been able to controvert the submissions made by the counsel opposite qua all the material witnesses including the victim having turned hostile during trial, however, he submits that the petitioner has not been in custody since 15.10.2018 as has been stated but has been in custody since 19.05.2019 as prior thereto he had absconded and he was also declared a proclaimed offender. Learned State counsel has further submitted that the petitioner had lured the victim, who admittedly was a minor in the dead of the night from her house, on the pretext of solemnizing marriage with her. While drawing the attention of this Court to the FIR in question, he submits that at the first instance itself the complainant had levelled specific allegations against the petitioner and still further after the minor was lured away by the petitioner, he solemnized marriage with her. Learned State counsel has drawn the attention of this Court to the custody certificate which has been filed in the Court today and is taken on record subject to all just exceptions, and

a copy of which has been supplied to the counsel opposite. Learned State counsel submits that the complainant, though as already conceded, has not supported the case of the prosecution during trial, however, the petitioner is involved in a number of cases, which also includes 03 cases under the Narcotic Drugs and Psychotropic Substances Act, 1985.

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

6. In the facts and circumstances since all the material witnesses including the victim have turned turtle during the trial coupled with the fact that the trial shall take some time to conclude as statement of the accused under Section 313 of the Cr.P.C. is yet to be recorded, this Court deems it fit to extend the concession of bail to the petitioner.

7. 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.

8. It is clarified that in case the petitioner is found misusing the concession of bail and is involved in any other criminal case, the State would be at liberty to approach this Court for cancellation of bail.

04.05.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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