

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

CRM-M No.42383 of 2022 (O&M)

Date of decision: 16th January, 2023

Aatesan @ Gulfam

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Mazlish Khan, Advocate for the petitioner.

Mr. Surender Singh, Asst. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

Petitioner in the instant petition filed under Section 439 Cr.P.C. is seeking concession of regular bail in case bearing FIR No.113 dated 17.05.2022 under Sections 328, 377, 506, 201, 34 IPC and Section 67-A of Information Technology Act, 2000 registered at Police Station Sanoli, District Panipat (Haryana).

Learned counsel for the petitioner, while drawing the attention of this Court to the FIR in question, the contents of which have been reproduced in paragraph No.1 of the petition, submits that no doubt the petitioner has been named in the FIR, however, as far as the question of petitioner having committed any unnatural offence upon the complainant or even having prepared the alleged video is concerned,

there is no specific attribution qua the same. He submits that in fact all the attributions qua the video having been prepared, have been levelled against the co-accused Inam. Learned counsel further submits that had the alleged offence indeed been committed, the complainant would have got himself medico-legally examined soon after the alleged occurrence, however, admittedly he got himself medically examined after two months of the alleged crime.

Per contra, learned State counsel on instructions from SI Attar Singh, while opposing the prayer and submissions made by the counsel opposite, submits that the charges have been framed against the petitioner and the other accused on the basis of an investigation carried out by the investigating agency. He has opposed the prayer made by the counsel opposite on the ground that serious allegations have been levelled against the petitioner of having first intoxicated the complainant after making him drink beer and thereafter, co-accused Inam in the presence of the petitioner prepared an obscene video of the complainant. Learned State counsel has, however, not been able to dispute that the medico-legal examination of the petitioner was conducted two months after the crime in question. It has been further submitted that as many as 12 prosecution witnesses have been cited, however, prosecution evidence has not yet commenced and is likely to commence on 13.02.2023. Learned State counsel has further submitted

that a mobile phone was recovered from the possession of the petitioner and the report from the FSL is still awaited.

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

The petitioner has now been in custody since 02.06.2022 and the trial will take considerable time to conclude as the prosecution evidence is yet to commence. In the facts and circumstances, as enumerated hereinabove, this Court deems it fit to allow the instant petition. The petition as such is allowed and the petitioner is admitted to bail to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

Since the main petition is allowed in the above terms, no separate order is required to be passed in the pending applications, if any, and all of them stand disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

January 16, 2023
rps

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