

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

104+255

CRM-2097-2023 in/and

CRM-M-47836-2022

Date of decision: 21.02.2023

Sukhdev Sharma @ Sukhdev Ram Bhalara

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Bhupinder Ghai, Advocate for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-2097-2023

For the reasons mentioned in the application, the same is allowed and copy of deposition of PW-1 i.e. statement of Dr. Isha Gupta, Medical Officer at Civil Hospital, Barnala is taken on record as Annexure P-7 subject to all just exceptions.

CRM-M-47836-2022

This is the third petition filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case FIR No.26 dated 12.01.2021 lodged under Sections 376, 420, 406 and 506 of the IPC (Sections 376(2)(n) and 201 of the IPC added lateron) registered at Police Station City Barnala, District Barnala.

Learned counsel for the petitioner submits that subsequent to the withdrawal of the previous petition seeking similar relief, the evidence of the sole material witness i.e. the prosecutrix stands recorded. He further submits that there is no likelihood of the trial concluding in the near future as 18 prosecution witnesses remain to be

examined and still further the petitioner has now been in custody since 03.08.2021.

Learned counsel for the petitioner has vehemently argued that on the face of it a false and fabricated case has been planted upon the petitioner by the prosecutrix who admittedly is a married woman. She had been wanting her son to be sent abroad by the petitioner who was a travel agent and since he was unable to send the son of the prosecutrix abroad, she had levelled false allegations against the petitioner of clicking her nude pictures and forcing her to have sexual relations with him, in return of ₹3,00,000/- which had been given by the prosecutrix to him for sending her son abroad. Learned counsel has submitted that the false implication of the petitioner in the case in hand stands further fortified from the fact that the prosecutrix refused to get herself medico legally examined after the registration of the FIR in question. In support, he has drawn the attention of this Court to the deposition of PW1 Dr. Isha Gupta annexed as Annexure P-7.

Per contra, learned State counsel while opposing the prayer and submissions made by counsel opposite on instructions, has not disputed that the prosecutrix is the sole material witness and she stands examined. He, however, submits that while stepping into the witness box, the prosecutrix had reiterated the allegations levelled against the petitioner of having forced her to have sexual relations with him. Learned State counsel has not controverted the submissions made by the learned counsel for the petitioner that the prosecutrix declined to get her medico legal examination conducted.

I have heard learned counsel for the parties and perused

the material placed on record.

In the facts and circumstances as enumerated hereinabove as the sole material witness i.e. the prosecutrix stands examined and the trial shall take considerable time to conclude, the petitioner who is in custody since 03.08.2021 is ordered to 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.

The petition stands allowed accordingly.

21.02.2023

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(MANJARI NEHRU KAUL)
JUDGE

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