

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.2425 of 2022 (O&M)
Date of decision: 23rd March, 2023

Mukesh
... Petitioner
Versus
State of Haryana
... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gaurav Grover, Advocate for the petitioner.
Mr. Rahul Mohan, Dy. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner is seeking concession of regular bail in case bearing FIR No.111 dated 03.02.2021 under Sections 363, 366, 376(2)(n) IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Old Industrial, District Panipat with a further prayer to set aside order dated 04.10.2022 passed by the learned Additional Sessions Judge, Panipat vide which his bail application stood dismissed.

Learned counsel inter alia contends that a false and fabricated case having been planted upon the petitioner finds credence from the fact that while stepping into the witness box, not only the father (complainant) and mother of the prosecutrix but even the prosecutrix herself failed to support the case of the prosecution, as a

result of which she was declared hostile. Learned counsel in support has invited the attention of this Court to the deposition of the prosecutrix which has been annexed as Annexure P-2. He submits that the prosecutrix had reiterated, while stepping into the witness box, her statement made under Section 164 Cr.P.C. that on account of an altercation with her mother she had gone to the house of her maternal uncle of her own accord. Learned counsel submits that the petitioner has now been in custody for more than 2 years, having been arrested on 04.03.2021 and since all the material witnesses stand examined, further incarceration of the petitioner would serve no useful purpose.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from SI Balwan has not been able to controvert that all the material witnesses had failed to support the case of the prosecution, as a result of which they were declared hostile. He submits that 14 prosecution witnesses remain to be examined and the case is now fixed for 12.04.2023 before the trial Court.

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

Admittedly, all the material witnesses were declared hostile during trial and still further, as many as 14 prosecution witnesses remain to be examined, hence, the trial shall take considerable time to conclude. In the facts and circumstances, as enumerated hereinabove,

this Court thus deems it fit to allow the instant petition. The revision 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.

(MANJARI NEHRU KAUL)
JUDGE

March 23, 2023
rps

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