

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

212

**CRM-M-52784-2022
Date of decision: 12.01.2023**

Harish

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. K.D.S. Hooda, Advocate
for the petitioner.

Mr. Rahul Mohan, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

This is the second petition filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case FIR No.0012 dated 07.02.2021 lodged under Sections 323, 354-A, 354-B, 354-C, 354-D, 376(2)(a), 452 and 506 of the Indian Penal Code, 1860 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Women Police Station Hansi, District Hisar.

Learned counsel for the petitioner contends that subsequent to the withdrawal of the previous petition on 24.02.2022, 03 out of 13 prosecution witnesses cited, stand examined.

Learned counsel for the petitioner further inter alia contends that it is a matter of record that prior to the registration of the FIR in question there had been some petty dispute between the parties, who admittedly are neighbours, however, the said dispute had been subsequently resolved between them. Learned counsel submits that thereafter yet again some dispute arose between the parties which led to

the registration of the FIR in question wherein totally false and fabricated allegations were levelled by the complainant against the petitioner. Learned counsel while drawing the attention of this Court to the allegations levelled in the FIR which has been annexed as Annexure P-1, submits that as per the allegations levelled after entering the house of the complainant, who is a married lady, the petitioner clicked her pictures while she was taking her bath. Thereafter, the petitioner allegedly started blackmailing the complainant to the effect that in case she did not establish physical relations with him, he would tarnish her image in the society. Learned counsel has vehemently argued that it is highly unbelievable that the petitioner would have subjected the complainant to continuous sexual assault for as many as almost 03 years and the complainant would have kept mum and not reported the crime either to the police or even her family members. It has still further been vehemently contended that the false implication of the petitioner is further evident from the fact that not even a single photograph of the complainant which was allegedly clicked by the petitioner has been recovered till date. Learned counsel lastly submits that since the petitioner has now been in custody for almost 02 years having been arrested on 16.02.2021 and only 03 out of the 13 prosecution witnesses stand examined coupled with the fact that he is not involved in any other criminal case, his further incarceration would serve no useful purpose, moreso, when the trial will take considerable time to conclude.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite on instructions, submits that there are serious allegations levelled against the petitioner of

having entered the house of his neighbour i.e. the complainant and thereafter clicked her photographs while she was bathing. Learned State counsel submits that thereafter, the petitioner continued to blackmail the complainant and forced her to establish physical relations with him. Learned State counsel submits that no doubt not a single photograph of the complainant had been recovered till now, however, in view of the serious and specific allegations of sexual assault having been levelled against the petitioner, he did not deserve the concession of bail. Learned State counsel, however, was not able to dispute the submissions made by the counsel opposite that it had come during investigation that prior to the registration of the FIR in question there had been some dispute between the parties which had been settled by them at their own level. Learned State counsel has also not disputed that the petitioner has clean antecedents and is not involved in any other criminal case.

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

The petitioner has been in custody since 16.02.2021 and there is no likelihood of the trial concluding in the near future as 10 out of the 13 prosecution witnesses cited remain to be examined. The learned State counsel has also apprised on instructions that subsequent to the evidence of the prosecutrix having been recorded she had been now again summoned under Section 311 of the Cr.P.C.

In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner.

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.

12.01.2023

(MANJARI NEHRU KAUL)
JUDGE

Vinay

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