

**In the Court of Mrs. Anjana, Additional Sessions Judge,
Fast Track Special Court, Hoshiarpur
UID No.PB0448**

CIS No. : BA : 300 of 2024
CNR No. PBH00100 4277 2024
Date of Decision : 09.05.2024

Mani Kumar aged 31 years son of Tarlok Ram, resident of village Ghorewaha, Tehsil Tanda, District Hoshiarpur.

.... Applicant/accused

Versus

State of Punjab.

.... Respondent.

FIR No. 290 dated 21.09.2023
U/s 376 IPC
PS: Tanda, District Hoshiarpur

Second Bail Application u/s 439 Cr.P.C

Present: Sh. MP Singh, Advocate, for applicant/accused
Sh. Nitin Berry, Addl. PP for the State

ORDER

This order of mine shall dispose of second bail application filed by the above referred applicant under Section 439 Cr.P.C, in above noted FIR.

2. In pursuance of the notice of the bail application having been issued, learned Addl.P.P. for the State has put in appearance. Main file/record produced.

3. The learned counsel for the applicant/accused has vehemently contended that applicant/accused is facing trial before this court. His earlier bail application has been declined by this court vide order dated 07.12.2023. Now the circumstances have been changed and the material witnesses of prosecution i.e. PW1 prosecutrix and her relative PW2 Surinder Kaur @ Simran have turned hostile and did not support the case of prosecution.

Remaining witnesses are formal in nature. No FSL report is to be received in this case as prosecutrix has refused for her internal medical examination. The applicant/accused in custody since last more than 7 months. No useful purpose will be served by keeping him in custody any more. He will abide by all the terms and conditions imposed by this court. It is prayed that present bail application may be accepted and accused be released on bail.

4. On the other hand, learned Addl.P.P. for the State vehemently opposed the contentions raised by the learned counsel for accused/applicant and prayed that due to gravity and seriousness of offence, accused is not entitled to regular bail. His earlier bail application has been dismissed by this court due to serious allegations and new ground is made out to grant him bail. The evidence of prosecution is yet to be concluded. Hence, prayer has been made for dismissal of bail application.

5. After giving my careful and thoughtful consideration to the rival contentions and on careful perusal of averments of application, contents of FIR coupled with the duly assistance rendered, the Court is of the considered view that present bail application merits dismissal. The record shows that present case has been registered on the basis of statement of complainant/prosecutrix and now applicant/accused is facing trial before this court qua the commission of offence under Section 376, 506, 384 IPC. Admittedly, this is the second bail application moved on behalf of applicant/accused as the first bail application under Section 439 Cr.PC of applicant/accused was dismissed by this court, vide order dated 07.12.2023 on the ground of seriousness of offence. There being no material change in the facts and circumstances of the case after the rejection of earlier bail

application of the applicant, except examination of some of prosecution witnesses. But the entire evidence of prosecution remains to be completed. There is no warrant or justification for taking a different view from the one already taken as it would amount to review or reconsider of the earlier order. Hence, in the light of these facts and circumstances and the gravity and seriousness of offence coupled with severity of sentence, this court does not find a fit case for according concession of regular bail to the applicant, as it shall seriously prejudice the case of prosecution and there is every likelihood that in case the applicant/accused is released on bail, he might tamper with the prosecution evidence. Hence, the present bail application being bereft of any substance, is hereby dismissed. The file of bail application be attached with the relevant record.

Pronounced
09.05.2024
baljinder

(Anjana)
Additional Sessions Judge,
Hoshiarpur
UID No.PB0448

CIS No. BA 300 of 2024 CNR No. PBHO01014277 2024
Mani Kumar vs State

Present: Sh. MP Singh Advocate, for applicant/accused
Sh. Nitin Berry, Addl. PP for the State

Main record/challan file produced. Report of Ahlmad seen.

Arguments heard. Vide my separate order of even date, the present bail application stand dismissed, for the reasons as indicated therein. File be consigned to the record room.

Pronounced
9.5.2024
baljinder

(Anjana)
Additional Sessions Judge,
Hoshiarpur
UID No.PB0448