

Sr. No. 208

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-29504 of 2015
Date of Decision: 07.09.2015

Titu Ram

--Petitioner

Vs

State of Haryana

--Respondent

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. P.S.Jammu, Advocate,
for the petitioner.

Mr. Ashish Yadav, Addl. A.G. Haryana.

RAMESHWAR SINGH MALIK J. (ORAL)

Petitioner seeks bail pending trial in FIR No. 25 dated 31.01.2015 under Sections 343, 365, 452 of the Indian Penal Code and Section 4 of POCSO Act, registered at Police Station Ding, Sirsa, District Sirsa.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. Prosecutrix was recovered from the Railway Station on 09.02.2015 i.e. after 09 days of the registration of the FIR. She suffered her statement before the learned Magistrate under Section 164 Cr.P.C. on 09.02.2015 itself wherein the prosecutrix did not even remotely allege any allegation against the petitioner. On the other hand she specifically stated that she has gone to her relatives' place due to study pressure. However, in her second statement under Section 164 Cr.P.C. recorded on

23.02.2015, she sought to implicate the petitioner which is prima facie an after thought because of extraneous consideration. He prays for allowing the present petition.

On the other hand, learned counsel for the State submits that prosecutrix was minor at the time of incident. This is the reason that the petitioner has been named as the only accused against whom the prosecutrix has alleged the allegation, although in her second statement under Section 164 Cr.P.C. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, petitioner has been found entitled for bail pending trial. It is so said because the prosecutrix has been found conveniently silent in her first statement under Section 164 Cr.P.C. recorded before the learned Magistrate on the date of her recovery i.e. 09.02.2015. In such a situation, it shall be a debatable issue before the learned trial Court as to which statement of the prosecutrix was correct one. Further, since the prosecution evidence is still going on, conclusion of trial will take some time.

In view of the above and without commenting anything further on the merits of the case, lest it should prejudice the rights of either of the parties, present petition is allowed. Petitioner is directed to be released on bail pending trial, on his furnishing adequate bail bonds/surety bonds to the satisfaction of learned trial Court.

Disposed of, accordingly.

(RAMESHWAR SINGH MALIK)
JUDGE

07.09.2015
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