

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM-M-33813-2015
Date of decision:7.10.2015

Ashok Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

1. To be referred to the Reporters or not ?
2. Whether the judgment should be reported in the Digest ?

Present: Ms.Sarika Gupta, Advocate for the petitioner.
Mr.Vikas Chopra, DAG, Haryana.

RAMESHWAR SINGH MALIK, J. (Oral)

Petitioner seeks bail pending trial in FIR No.265 dated 15.7.2015 registered under Sections 452 and 376 IPC at Police Station Farakpur, District Yamuna Nagar.

Learned counsel for the petitioner submits that owing to the age of the petitioner and prosecutrix, the story put forth in the FIR does not appeal to reason. Prosecutrix was a married lady and was having four children. Petitioner and prosecutrix were neighbourers. She further submits that since prosecutrix had taken a loan of Rs.1.45 lacs from the petitioner, she tried to misuse that situation with a view to put unwarranted pressure on the petitioner. She also submits that there are serious contradictions in the statements of the prosecutrix recorded under Section 161 Cr.P.C. and under Section 164 Cr.P.C. She prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from ASI Salender Singh, Police Station Farakpur, submits that allegations against the petitioner are direct and serious. There were no serious

contradictions in the statements of prosecutrix recorded under Section 161 Cr.P.C. and under Section 164 Cr.P.C. FSL report is still awaited. He further submits that material witnesses including the prosecutrix are yet to be examined. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, 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 keeping in view the peculiar facts and circumstances of the case noticed hereinabove, petitioner has been found entitled for bail pending trial.

It is so said, because keeping in view the age of the petitioner as well as that of prosecutrix, it will be a debatable issue before the learned trial Court to appreciate whether, any such incident, as a matter of fact, has taken place or not. It is also true that there are some contradictions in the statements of the prosecutrix recorded under Section 161 Cr.P.C. as well as under Section 164 Cr.P.C. Further, since prosecution evidence is yet to start, conclusion of trial will take some time.

In view of the above and without commenting anything further on merits of the case, at this stage, lest it should prejudice the rights of either of the parties, the instant 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.

7.10.2015

mks

MUKESH KUMAR SALUJA
2015.10.07 17:30
I attest to the accuracy and
authenticity of this document.

(RAMESHWAR SINGH MALIK)
JUDGE