

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

Crl. Misc. No.M-40255 of 2015

Date of Decision: 01.04.2016

Lakhwinderpal Singh

....Petitioner

Versus

State of Punjab

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ? (Yes/No)**
- 2. To be referred to reporters or not ? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest ? (Yes/No)**

Present:- Mr. Z.S. Chauhan, Advocate
for the petitioner.

Mr. Rupam Aggarwal, D.A.G., Punjab
for the respondent-State.

DAYA CHAUDHARY, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case FIR No.73 dated 05.07.2015 registered under Sections 363/366-A/376 IPC and Sections 4/8 of the POCSO Act at Police Station Fattu Dyinga, Kapurthala.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas, no offence is made out under Sections 363/366-A IPC and even under Section 376 IPC. The statement of the victim was recorded under Section 164 Cr.P.C., wherein, the allegations levelled in the FIR have been denied. It has been mentioned in the statement by the victim that she was not kidnapped by

the accused. Learned counsel also submits that the FIR was registered on the basis of complaint made by mother of the victim. Even in the statement recorded before the trial Court, the victim has not supported the case of the prosecution. It has been mentioned in the statement before the trial Court that neither rape was committed nor she was kidnapped. In *Medico Legal Report* also, nothing is there to show that she was subjected to any sexual assault. Now there is no possibility that the petitioner is going to influence the victim as her statement has already been recorded. Even the statement of the complainant has also been recorded. The petitioner is in custody since 07.07.2015.

Learned counsel for the respondent-State, on instructions from Sub Inspector Jaspal Singh, has not disputed the statement of victim recorded under Section 164 Cr.P.C. before the trial Court as well as the custody period. It has also not been disputed that the statement of complainant has been recorded before the trial Court.

In view of the submissions made by learned counsel for the petitioner and keeping in view the stage of the trial as the statements of victim as well as complainant have been recorded and there is no possibility that the petitioner is going to influence any material witness; trial may take long time to conclude and no useful purpose would be served by keeping the petitioner in custody as he is in custody since 07.07.2015, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court.

01.04.2016
gurpreet

(DAYA CHAUDHARY)
JUDGE