

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

**Criminal Misc. No.M- 1045 of 2017(O&M)**

**Date of Decision: October 27 , 2017.**

Romy Gupta ..... PETITIONER (s)

**Versus**

State of Punjab ..... RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Prabhjeet Singh Sullar, Advocate  
for the petitioner.

Mr. Rahul Rathore, DAG, Punjab.

\*\*\*\*\*

**LISA GILL, J.**

The petitioner prays for bail pending trial in FIR No.49 dated 29.03.2016 under Sections 376/420/354/356/120B IPC registered at Police Station Basti Bawa Khel, District Jalandhar.

As per the allegations in the FIR, the victim was about 17 years of age. Proposal of her marriage with the co-accused Sheetal @ Happy was sent to the complainant (mother of the victim) to which the complainant and her family agreed. A meeting was arranged at the house of one Seema. Family members of the co-accused Sheetal @ Happy however expressed their reservations as the victim was under 18 years of age. It is stated that Sheetal @ Happy however contacted the victim in the meantime and remained in touch with her. Physical relations were admittedly developed between them. It is stated that subsequently,

the co-accused Sheetal @ Happy under fear of criminal proceedings being carried out against him, came to the house of the complainant alongwith his family members and agreed to marry the victim. Engagement ceremony of the victim with Sheetal @ Happy was performed on 19.11.2015. The co-accused Sheetal @ Happy allegedly left for Dubai on 20.11.2015 itself. He was in touch with the victim telephonically who informed him that she missed her menstrual cycle. Pregnancy test was conducted on the asking of the co-accused Sheetal @ Happy with the aid of one Jassi Bhabi. When the test result came positive, Jassi Bhabi asked the victim to have some medicines and the present petitioner was asked to drop the victim. The petitioner dropped the victim near Gulab Vatika Palace and went away. The petitioner is alleged to have called the victim on 12.12.2015 and stated that Jassi Bhabi wished to talk to her. The victim went to Nakodar Chowk on his asking at about 9.00 a.m. on 14.12.2015 where she met an unknown person in a car. He asked the victim whether she is waiting for the petitioner. Trusting the said person, victim sat in his car. The petitioner met them on the way and sat on the rear seat with the victim. She was taken to a shop, namely, Tanya Gift Centre, Lambra. Thereafter, the petitioner alongwith his companion drove the car towards a deserted place, violated the person of the victim and clicked obscene photographs. He threatened not to disclose this incident to anyone. It is further stated that the co-accused Sheetal @ Happy called from Dubai and stated that the victim was not holding a good character, therefore he would break his engagement with her. The co-accused Sheetal @ Happy returned on 25.12.2015. He refused to marry the victim as it was stated

that she was roaming around with other boys in their car. It is alleged that the petitioner indulged in wrong acts with the victim, clicked her obscene photographs, so that her engagement with the co-accused Sheetal @ Happy could be broken. It is stated in the FIR that the co-accused Sheetal @ Happy violated the person of the victim and in order to hide his wrong acts, he in connivance with the present petitioner and others took her obscene photographs.

It is submitted that the petitioner has been falsely implicated in this case. The main allegations are against the co-accused Sheetal @ Happy, who has still not been apprehended by the police. Learned counsel for the petitioner vehemently argues that there is an unexplained delay of over three and half months in lodging of the present FIR. The alleged incident is of 14.12.2015 whereas, the present FIR is registered on 29.03.2016. No obscene pictures/video have been recovered. There is no medical evidence to prove the commission of the offence by the present petitioner. Further, there is no medical evidence on record to prove the victim's pregnancy, which even if accepted, is not attributable to the petitioner. Such allegations are against Sheetal @ Happy. Moreover, the main accused Sheetal @ Happy, also an accused in a matter under the NDPS Act, is deliberately not being apprehended by the police. It is submitted that Sheetal @ Happy was admittedly taken in custody in FIR No.123 dated 26.06.2017 under Section 21 of the NDPS Act at Police Station Division No.7, Jalandhar but the police took no steps to seek his arrest in the present case. It was wrongly stated before this Court on 22.08.2017, on instructions of ASI Mulkh Raj that Sheetal @ Happy was produced in this case on 06.07.2017 on production

warrants. It thereafter transpired that he was never produced in this case and was released on bail on 04.07.2017 in the matter under the NDPS Act. Subsequently, affidavit dated 29.09.2017 of Assistant Commissioner of Police (West), Jalandhar was filed wherein it is revealed that Sheetal @ Happy has still not been arrested.

The petitioner, it is submitted, is not involved in any other criminal case. He has been in custody since April, 2016. Moreover, the prosecutrix has since testified before the learned trial court. Learned counsel refers to the statement of prosecutrix wherein it is stated that in case marriage had been solemnized between the victim and the co-accused Sheetal @ Happy, this case would not have been initiated. Therefore, it is prayed that this petition be allowed.

Learned counsel for the State argues that there are specific allegations against the present petitioner. It is, however, not denied that the co-accused Sheetal @ Happy was engaged with the victim. She got pregnant pursuant to physical relations with the said co-accused. Learned counsel for the State, on instructions from ASI Bhupinder Singh, verifies that the petitioner is not involved in any other criminal case. The victim in this case has since testified before the learned trial court. Eighteen (18) prosecution witnesses are yet to be examined. The petitioner is in custody since April 2016. Trial in this case is not likely to conclude in the near future. No useful purpose would be served by keeping the petitioner incarcerated any longer in the peculiar facts and circumstances of this case.

There are no allegations on behalf of the State that the petitioner is

likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, this petition filed by Romy Gupta is allowed. The petitioner shall be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition. It is made clear that the petitioner shall not directly or indirectly try to contact the victim, the complainant or any of their family members in any manner. Any such infraction on the part of the petitioner may entail cancellation of his bail.

Before parting with the order, Commissioner of Police, Jalandhar is directed to look into the matter regarding furnishing of false information before this Court by ASI Mulkh Raj on 22.08.2017. Necessary action be taken against the concerned official and report in this regard be submitted before this Court within six weeks from the date of receipt of certified copy of this order.

October 27 , 2017.  
'om'

**( LISA GILL )**  
**JUDGE**

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