

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Criminal Misc. No.M- 12091 of 2017(O&M)

Date of Decision: May 8 , 2017.

Jagsir Singh @ Jaggi PETITIONER (s)

Versus

State of Punjab RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashok Goel, Advocate
for the petitioner.

Mr. Deep Singh, AAG, Punjab.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No.102 dated 28.10.2016 under Sections 363/366A IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Ghagga, District Patiala.

It is submitted that the petitioner has been falsely implicated in this case on the basis of a mere suspicion. As per the allegations in the FIR, the complainant's daughter went missing on the intervening night of 23/24.10.2016.

A report in this respect was lodged on 28.10.2016, on the basis of which the

present FIR has been lodged. It is mentioned therein that the complainant alongwith his three children including the alleged victim went to sleep after taking their meals on 23.10.2016. When they woke up in the morning, they noticed his daughter was not present at home. They searched for her but she could not be found. The complainant allegedly found a letter written by the petitioner alongwith one photograph of the petitioner. He therefore expressed a firm belief that his daughter was enticed away by the petitioner for the purpose of marriage.

The alleged victim was recovered on 22.11.2016 from Dera Sacha Sauda, Sirsa and her custody was handed over to her parents. Learned counsel for the petitioner points out to the statement (Annexure P2) of the victim recorded under Section 164 Cr.P.C. on 23.11.2016. The alleged victim has stated that she had met the petitioner at a hotel on 23.10.2016 at about 1.30 p.m. They had tea together. The petitioner mixed something in the tea and she felt compelled to do whatever the petitioner told to her. The petitioner handed over two sleeping tablets to her. It was agreed that they would meet later at 11/11.30 p.m. She administered one tablet each to both of her parents. The petitioner came at their residence at 11.30 p.m. The victim accompanied him. They reached Gurudwara Dukhniwaran Sahib at Patiala and stayed the night there. With the help of the petitioner's younger sister, they reached Dera Sacha Sauda, Sirsa on the next day. The petitioner's sister remained there for three days with her and returned home thereafter. It is stated by the victim that she remained at Dera Sacha Sauda at Sirsa by herself thereafter. The petitioner's sister had come to meet her on 22.11.2016. They were seen by a distant

maternal uncle of the victim who informed her parents. The alleged victim categorically stated that the petitioner did not do any wrong act with her. The victim accompanied by her mother and uncle refused for her medico-legal examination. It is thus submitted that no offence punishable under Sections 363/366A/120B IPC much less Section 8 of the Protection of Children from Sexual Offences Act, 2012 is made out against the petitioner, who has been in custody since 25.11.2016. Charge against the petitioner has been framed under Sections 363/366A/109 IPC and Section 17 of the Protection of Children from Sexual Offences Act, 2012. It is submitted by learned counsel for the petitioner that the alleged victim has not come forward to testify before the learned trial court despite being summoned for 28.03.2017 and 11.04.2017. Therefore, it is prayed that this petition be allowed.

Learned counsel for the State does not deny the factual matrix as above. It is not denied that the alleged victim in her statement under Section 164 Cr.P.C. has stated that she administered a sleeping pill each to her parents and then accompanied the petitioner. She remained at Dera Sacha Sauda, Sirsa on her own. It is verified that the petitioner is a 19 year old boy and is not involved in any other criminal case. Charge in this case has been framed. Prosecution evidence is being led.

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. Trial in this case is not likely to conclude in the near future.

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 Jagsir Singh @ Jaggi 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.

May 8 , 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No