

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl. Misc. No. M-12944 of 2017 (O&M)
Date of Decision : August 04, 2017

Islam Petitioner

Verus

State of Haryana..... Respondent

Crl. Misc. No. M-19280 of 2017

Sadik Mohd. Petitioner

Versus

State of Haryana Respondent

CORAM : HON'BLE MRS. JUSTICE LISA GILL

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?

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Present: Mr. K.K.Saini, Advocate
for the petitioner in CRM No.M-12944 of 2017
Mr. Brijender Kaushik, Advocate
for the petitioner in CRM No.M-19280 of 2017

Mr. Sanjay K. Saini, Addl. A.G. Haryana.

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LISA GILL, J. (Oral)

This order shall dispose of CRM-M-12944-2017 as well as
CRM-M-19280-2017. For the sake of convenience, facts are taken from

The petitioner-Islam in CRM-M-12944-2017 prays for the concession of anticipatory bail in FIR No. 287 dated 24.10.2015 under Sections 376/370 IPC registered at Police Station, Naraingarh, District Ambala.

The petitioner-Sadik Mohd. in CRM-M-19280-2017 prays for bail pending trial in the above said FIR.

It is submitted that both the petitioners were found innocent during investigation. They have been subsequently summoned to face trial as additional accused on an application under Section 319 Cr.P.C.

The petitioner-Islam is the real brother and Sadik Mohd. is the cousin brother of the ex-husband of the alleged victim. It is not in dispute that the victim and her husband separated one month prior to the occurrence. The victim is alleged to have gone missing on 19.10.2015. The FIR was registered on the statement of Mehardeen, father of the victim on 24.10.2015. The alleged victim was recovered on 20.12.2015 from the company of one Rohit.

Statement of the victim under Section 164 Cr.P.C. has been recorded on 04.01.2016. The vernacular of this statement is available on record. The victim stated that she went to village Nabipur along with her brother Nasib Khan. Petitioner Sadik Mohd. slapped her brother and both the present petitioners forcibly took her away. They are alleged to have violated her person. They took her to Paonta Sahib and sold her to one Rohit for a sum of ₹20,000/-. It is stated that she called her uncle (Chacha) Illmuddin secretly while she was being taken to Paonta Sahib. Thereafter she was recovered from Paonta Sahib after about fifteen days.

It is vehemently argued that the entire prosecution version is

highly improbable because in case the victim was accompanied by her brother there is no reason as to why these facts were not revealed by her father at the time of lodging the FIR. The victim's brother has not even been arrayed as a witness in this case. Furthermore, the co-accused Rohit in his disclosure statement revealed that the victim was handed over to him by Illmuddin i.e. uncle of the victim. Therefore, the entire prosecution case against the petitioners is suspect.

Petitioner-Sadik Mohd. is stated to be in custody since 06.03.2017. Petitioner-Islam appeared before the learned Additional Sessions Judge, Ambala, on 11.05.2017 pursuant to order dated 05.05.2017 passed by this Court and he has been admitted to interim bail. The petitioners it is submitted are not involved in any other criminal case. Therefore, these petitions be allowed.

Learned counsel for the State, on instructions from SI Balwinder Kaur, does not deny the factual aspects of the case as mentioned above. The petitioner-Islam it is verified has appeared before the learned trial Court on 11.05.2017. Certified copy of order dated 11.05.2017 is taken on record. It is verified that the petitioners are not involved in any other case and are not required for custodial interrogation. No recovery is to be effected from them.

There is no allegation that the petitioners are likely to abscond or that they are likely to dissuade the witnesses from deposing true facts before the learned trial Court, if released on bail.

Keeping in view the facts and circumstances of the case but without expressing any opinion on the merits of the case, it is considered just and expedient to allow these petitions.

Consequently, interim bail afforded to the petitioner-Islam in CRM-M-12944-2017 vide order dated 11.05.2017 by the trial Court is made absolute subject to his furnishing fresh bail bonds and surety to the satisfaction of the learned trial Court.

Petitioner-Sadik Mohd. in CRM-M-19280-2017 be released on bail pending trial subject to his furnishing requisite bail bonds and surety bonds to the satisfaction of the learned trial Court.

04.08.2017
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(LISA GILL)
JUDGE

Note: Whether speaking/reasoned	Yes / No
Whether Reportable:	Yes / No