

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

Criminal Misc. M- No. 14078 of 2017 (O&M)

Date of decision : May 11, 2017

Prateek Saraswat

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Brahminder Singh Toor, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 656 dated 11.10.2016 registered under Sections 363, 366A IPC (later Section 6 of Protection of Children from Sexual Offences Act, 2012 was added) at Police Station Sarai Khawaja, Faridabad District Faridabad.

It is submitted that the petitioner has not been named in the FIR neither was he named in the statement of the victim recorded under Section 164 Cr.P.C. It is after a period of four months, the petitioner has been named in the statement of the prosecutrix at CWC, Faridabad. There are discrepancies in all the statements made by the victim. The place of occurrence mentioned in the statements is not the same. It is further submitted that as per the statement suffered by the victim before the CWC

she stated that she disclosed the incident to her father whereas this is not so mentioned in her statement under Section 164 Cr.P.C. In case these facts were disclosed to her father earlier, there is no reason why the present petitioner was not named in the FIR. In fact, it is one Sandeep Mishra who has been named in the FIR by the victim's brother. Therefore, this petition be allowed.

Learned counsel for the State has opposed this petition while submitting that there are specific allegations against the petitioner whose name was not known at the time of registration of the FIR. His name surfaced during investigation when the police on 04.03.2017 found that a room was booked by the present petitioner at R.R. Lodge on 01.10.2016. It is, thus, prayed that this petition be dismissed.

I have heard learned counsel for the parties and have gone through the available file.

The present FIR was registered on the statement of the victim's brother. It was reported that the victim was missing from her home. She left her home on 02.10.2016 at about 4.00 p.m. She could not be traced despite their best efforts. Certain objectionable photographs of his sister with a boy namely Sandeep Mishra were discovered by him. A doubt was expressed that the said Sandeep Mishra has enticed his sister. Accordingly, FIR under Sections 363, 366A IPC was registered. The victim was recovered by her father from Hapur on 17.12.2016 after she managed to call from there. Her statement under Section 164 Cr.P.C. was recorded on 17.12.2016 itself. The victim has raised allegations against one Vibhuti from whom she was learning media work. It is with his active intervention that the victim was made to go to Kashmiri gate for distribution of certain pamphlets.

Allegations were raised against four boys who were not named. She stated that she was made to drink some intoxicant by one of the boys who took her to hotel. She was then taken to a room in a hotel by the boys and her person was violated. She returned home. Her father started shouting at her, therefore, she did not reveal anything to him. The victim further stated that she revealed the incident to one of her neighbours Mehboob but he convinced her that her father will beat her up so instead of going back home she should accompany him. It is stated by the victim that her person was then violated by the said Mehboob and she was sold by him in Khada colony. She raised allegations against one Raju. She was sent to Raju's friend's mother at Hapur. It is stated that she somehow managed to contact her father through one Gajender. Thereafter, her father came to Hapur and brought her home. She then appeared before the police and her statement was recorded under Section 164 Cr.P.C.

Thereafter on investigation, the police on 04.03.2017 found that a room was booked at R.R. Lodge by the present petitioner and his name surfaced in this manner. It is, in these circumstances, the victim in her statement on 01.04.2017 before CWC, Faridabad named the present petitioner alongwith one Manu Tiwari. It is to be noted that in the said statement, two of the said boys are still un-named. It is further informed by learned counsel for the State that another FIR No. 227 dated 02.05.2017 under Sections 334D and 506 IPC was registered at Police Station 31, Faridabad on a complaint made by the victim in this case. There are serious allegations against the petitioner. The concession of anticipatory bail is not warranted in this case. Accordingly, this petition is dismissed.

It is to be noted that the victim, duly identified by ASI Jaikaran,

is present in Court. She states that she is still being threatened and intimidated by the petitioner. The Commissioner of Police, Faridabad is directed to take necessary action in this matter and provide due protection to the victim as may be/if any, required.

It is reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

May 11, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes/No