

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

Criminal Misc. No.M- 14479 of 2017(O&M)

Date of Decision: May 3 , 2017.

Saurav PETITIONER (s)

Versus

State of Haryana RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sanjiv Kumar Aggarwal, Advocate
for the petitioner.

Mr. Sanjay K.Saini, AAG, Haryana.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No.416 dated 15.12.2016 under Section 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 registered at Police Station Pundri, District Kaithal.

It is submitted that the petitioner, who is merely 18-1/2 years old, is a brilliant student securing excellent scores. Reference is made to the Secondary Examination Certificate, Annexure P5. The petitioner has been falsely implicated in this case. Learned counsel for the petitioner submits that the complainant, who is admittedly the father of the victim/prosecutrix, levelled allegations in the FIR against his own wife Smt. Rekha Rani and one

Gurmeet. The petitioner's name does not figure in the FIR. The alleged victim was produced by the complainant himself on 17.12.2016 and her statement under Section 164 Cr.P.C. was recorded on the same day. The victim stated that she was having friendly relations with one Gurmeet who had agreed to marry her but later refused. Allegations are raised by the victim against the said Gurmeet only. Her father, it is stated, scolded her regarding the said relationship. The victim stated that she had gone to Panipat from Delhi. Her family members lodged the FIR and she proceeded to paternal aunt's (Bua) house. The petitioner's name does not figure even in the said statement under Section 164 Cr.P.C.

The victim, it is submitted, was produced before the Child Welfare Committee, Kaithal on 23.12.2016 (Annexure P3). The victim again did not raise any allegation against the present petitioner but stated about her relationship with Gurmeet. The victim was yet again produced before the Child Welfare Committee, Kaithal on 26.12.2016. For the first time, on this occasion on 26.12.2016 the victim stated that she had physical relations with the present petitioner for about three years prior to her relation with Gurmeet and he made her habitual of taking drugs. Her statement dated 26.12.2016 reads as under:-

“I Sonia aged 16 years d/o Shiv Kumar r/o Fatehpur Pundri states that there were two boys with me (i) Saurav who was with me for around 3 years with whom I had physical relations and who made me habitual of drugs (ii) Gurmeet who is with me for 5-6 months who also used to come to our house in the night and he also gave me tranquilizer and giving me assurance of the marriage

established physical relations with me and called me to Delhi for solemnising marriage but refused thereafter due to which I am pregnant. I want that action be taken against him and I want to get the abortion done. I want to go with my parents and continue my studies and in future I would not commit any such mistake and would obey my parents.”

Learned counsel for the petitioner vehemently argues that though there is no basis for naming the petitioner, even a bare reading of statement dated 26.12.2016 does not reveal the commission of any offence by the present petitioner. Furthermore, averment of the victim being pregnant was also found to be false during investigation. There is no other evidence to connect the present petitioner with the alleged crime. The petitioner, it is submitted, is a student of 12th Class. He has been in custody since 04.01.2017 and his entire academic career would be in jeopardy in case this petition is not allowed. Therefore, it is prayed that this petition be allowed.

Learned counsel for the State, on instructions from HC Manjeet Singh, affirms and verifies the factual position as above. It is not denied that the petitioner has been named for the first time by the victim in her second statement before the Child Welfare Committee, Kaithal on 26.12.2016. It is not denied that there is no other evidence apart from the said statement against the petitioner. The certificate Annexure P5 is verified to be correct.

The challan/final report under Section 173 Cr.P.C. has since been presented. Trial in this case is not likely to conclude in the near future. 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 Saurav is allowed. The petitioner shall be released on bail pending trial subject to his furnishing requisite bail bonds and surety bonds 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 3 , 2017.
'om'

(**LISA GILL**)
JUDGE

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