

CRM-M-15392-2017

Date of Decision : 18.08.2017

Madan Lal

.....Petitioner

versus

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE LISA GILL**Present:** Mr. Mazlish Khan, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

LISA GILL, JUDGE (ORAL)

The petitioner has preferred a second petition for bail pending trial in FIR No.786 dated 17.12.2015 under Section 346 IPC (later on added Sections 363,366,376-D,120-B IPC and Section 6 of POCSO Act) registered at Police Station City Bhiwani District Bhiwani, Haryana.

It is submitted that the co-accused-Ravi and Anguri @ Guddi have been afforded the concession of bail pending in the trial Court. Therefore, the petitioner is also entitled to the concession of bail. He has been in custody since February, 2016. Material witnesses in this case have already been examined. Therefore, this petition be allowed.

I have heard learned counsel for the parties.

It is noticed that bail was afforded to the co-accused-Anguri @ Guddi by this Court on 08.08.2016 in CRM-M-26439-2016 (Annexure P-2) whereby it is mentioned that no specific allegation has been levelled against

the said co-accused apart from the fact that the victim was left at Bhiwani bus stand by her. Bail was afforded to the co-accused-Ravi by the learned Additional Sessions Judge, Bhiwani vide order dated 26.08.2016 (Annexure P-3). It is specifically mentioned therein that the victim never raised any allegations of sexual assault at the hands of the co-accused-Ravi. Reference was made to her statement under Section 164 Cr.P.C. The victim while appearing before the trial Court levelled allegations of sexual assault against Ravi for the first time. Bail was granted to Ravi in the facts and circumstances of the case after the victim had been examined.

It is to be noted that the victim in her statement under Section 164 Cr.P.C has clearly raised allegations of sexual assault *qua* the present petitioner-Madan Lal which is not so, as far as the co-accused-Ravi is concerned. It is clear that allegations of sexual assault by the petitioner were raised since the outset. Therefore, the petitioner cannot claim any parity with the co-accused-Ravi or Anguri @ Guddi. Petitioner's first bail application was dismissed as withdrawn on 19.10.2016, when this Court was not inclined to grant bail (Annexure P-4). All the facts as urged hereinabove by learned counsel for the petitioner were clearly available at that point of time as well.

Moreover, learned counsel for the State on instructions from Head Constable Pardeep Kumar informs that out of 28 prosecution witnesses 21 have already been examined, three of them have been given up and the rest have been summoned before the learned trial Court on 01.09.2017.

Clearly the trial is at its fag end, therefore, I do not find any

ground to afford the concession of bail pending trial to the petitioner at this stage.

It is clarified 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.

(LISA GILL)
JUDGE

18.08.2017
Neha

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