

Criminal Misc. M- No. 17153 of 2017 (O&M)

Date of decision : July 18, 2017

Gurpreet Kamboj

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Sanjay K. Saini, AAG, Haryana.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 10 dated 20.02.2017 registered under Sections 363, 366A IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012 at Police Station Women Fatehabad, District Fatehabad.

It is submitted that the petitioner has been falsely implicated in the above said FIR. The petitioner and the complainant's daughter solemnised marriage against the wishes of the complainant and his family. The victim duly executed an affidavit (Ex.P2) stating that she was over 18 years old. This was not to the liking of the complainant i.e. the victim's father and it is due to this reason that the present FIR against the petitioner has been lodged.

The alleged victim in her statement under Section 164 Cr.P.C. stated that she solemnised marriage with the petitioner out of her own free will and consent and did not wish any action to be taken against anyone.

Furthermore, the alleged victim, in this case, has since testified before the learned trial Court. The victim, it is stated, admitted that she accompanied the petitioner on 18.02.2017 and was recovered from his company on 23.03.2017. She has admitted an affection for the petitioner as well as the factum of her signatures on the documents for seeking protection after solemnisation of her marriage with the petitioner at the Arya Samaj Mandir while paradoxically denying that she was not allured or enticed by the petitioner. It is, thus, prayed that this petition be allowed.

Learned counsel for the State while opposing this petition submits that the victim, in this case, was seventeen (17) years and ten (10) months old at the time of the alleged incident, therefore, a minor. In this situation, the question of consent, if any, is irrelevant. However, the statement of the victim under Section 164 Cr.P.C. is not denied. It is further verified that the victim has since testified before the learned trial Court. It is informed that out of nineteen (19) prosecution witnesses only two have yet been examined. Trial, in this case, is not likely to conclude in the near future. Learned counsel for the State, on instructions, from ASI Geeta verifies that the petitioner is not involved in any other criminal case.

There are no allegations on behalf of the State that 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.

No useful purpose shall be served by keeping the petitioner incarcerated any longer. Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is

considered just and expedient to allow this petition.

Consequently, the petitioner 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 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.

July 18, 2017
rts

(Lisa Gill)
Judge

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