

Criminal Misc. M- No. 17911 of 2017 (O&M)

Date of decision : September 05, 2017

Vivek Chanana

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sanjay Suri, Advocate and
Mr. Rishab Relan, Advocate
for the petitioner.

Mr. Sanjay K. Saini, AAG, Haryana.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 52 dated 06.02.2017 registered under Section 376 IPC at Police Station Murthal, District Sonapat.

It is submitted that the petitioner has been falsely implicated in this case. The petitioner and the complainant were on friendly terms with each other since the year 2014. This led to a matrimonial dispute between the petitioner and his wife. Reference is made to FIR No. 1303 dated 28.09.2014 (Annexure P-7), which was registered at the instance of the complainant's mother whereby it is alleged that the present petitioner had kidnapped the present complainant. Learned counsel for the petitioner submits that the alleged victim in the said FIR i.e. the present complainant, in her statement under Section 164 Cr.P.C. in that case, stated that she had gone to her Aunt's home at Rohini, Delhi on her own. The petitioner was not

proceeded against in the said FIR No. 1303 dated 28.09.2014. To indicate the consensual relationship between the parties, reference is made to certain photographs (Annexure P-3). It is contended that the petitioner and his wife in the interregnum resolved their differences, especially keeping in view the future of their two minor children. The petitioner and his wife resumed co-habitation in January 2017. Reference is made to orders dated 21.11.2016 and 03.04.2017 passed by this Court in CRM-M-2870 of 2016. The petitioner had broken all contact with the complainant. It is when the petitioner resumed co-habitation with his wife that the present FIR has been lodged in a mala fide manner. It is, thus, prayed that this petition be allowed. It is informed that this is the petitioner's second bail petition. The earlier petition i.e. CRM No. M-15880 of 2017 filed by the petitioner was dismissed as withdrawn on 11.05.2017 with liberty to file afresh.

Learned counsel for the State, on instructions, from ASI Sanjay Kumar, is unable to deny the inter se proceedings between the petitioner and his wife as well as the factum of their resuming co-habitation since January, 2017. Registration of FIR No. 1303 dated 28.09.2014 and the statement of the present complainant under Section 164 Cr.P.C. in the said case, is also verified. It is informed that final report under Section 173 Cr.P.C. has since been presented. Charge against the petitioner has been framed.

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.

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 to the satisfaction of the learned trial Court.

It is made clear that the petitioner shall not try to contact the complainant or victim in any manner - directly or indirectly. Any infraction on the part of the petitioner may entail cancellation of his bail.

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.

September 05, 2017
rts

(Lisa Gill)
Judge

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