

Criminal Misc. No. M- 19243 of 2017 (O&M)

Date of decision : September 06, 2017

Chandan Kumar Upadhayay

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vinay Kumar Sharma, Advocate and
Mr. Pawan Yadav, Advocate
for the petitioner.

Mr. Sanjay K. Saini, AAG, Haryana.

Mr. Rashid Khan, Advocate
for the complainant.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 189 dated 09.12.2016 under Sections 328, 376, 506, 323 IPC registered at Police Station Women Faridabad.

It is submitted that the relationship of the petitioner with the complainant, if any, was entirely consensual in nature. Learned counsel for the petitioner argues that a bare reading of the FIR reveals that the complainant and the petitioner had friendly relations. They knew each other much prior to the registration of the FIR in question. It is urged that allegations that the complainant was forced into physical relations with the petitioner firstly after administering an intoxicant and thereafter by holding a false promise of marriage are baseless and unsubstantiated. The complainant's brother, it is submitted, was serving as an Instructor in the

same outfit and being his colleague was well aware of his marital status, therefore, there was never any question of holding any false promise of marriage to the complainant. The prosecution version is, thus, extremely doubtful. The petitioner, it is submitted, is in custody since December, 2016. All the material witnesses including the prosecutrix and her mother have since testified before the learned trial Court. The petitioner, who was serving as Constable with the Seema Surakha Bal is not involved in any other criminal case. It is, thus, prayed that this petition be allowed.

Learned counsel for the State as well as the complainant vehemently oppose this petition while submitting that there are specific allegations against the petitioner. The prosecutrix has duly supported the prosecution version. It is not denied that the complainant and the petitioner were known to each other much prior to the registration of the FIR in question though learned counsel argue that on 12.07.2016 the petitioner forced the victim into physical relations after administering an intoxicant and thereafter on the false promise of marriage. It is affirmed that out of fourteen (14) prosecution witnesses, six (6) have been examined, which includes the prosecutrix and her mother.

Learned counsel for the State, on instructions from SI Raj Bala 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 to the satisfaction of the learned trial Court.

It is, however, clarified that the petitioner shall not try to contact the complainant or any of her family members in any manner - directly or indirectly. Any such 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 06, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No