

**Criminal Misc. No. M-19777 of 2017 (O&M)**

Date of decision : December 15, 2017

Sandeep Kumar

.....Petitioner

Versus

State of Haryana

....Respondent

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Pratham Sethi, Advocate for  
Mr. Ravinder Malik(Ravi), Advocate  
for the petitioner.

Mr. Sanjay K. Saini, AAG, Haryana.

Mr. Subhash Godara, Advocate for  
Mr. S.S. Dinarpur, Advocate  
for the complainant.

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**LISA GILL, J.**

In this petition filed under Section 438 Cr.P.C. read with Section 482 Cr.P.C., the petitioner seeks the concession of anticipatory bail in FIR No.174 dated 09.04.2017 under Sections 365, 216/34 IPC, Section 6 of Protection of Children from Sexual Offences Act, 2012 and Section 3 of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act ('SC/ST Act' – for short) registered at Police Station Sadar Thanesar, District Kurukshetra.

It is submitted that the petitioner was not named in the abovesaid FIR. No allegations have been levelled against him. The petitioner is sought to be nominated on the basis of the statement of the co-accused - Vikas. There is no other evidence against the petitioner in this case. It is further submitted that there is nothing on record to indicate the commission of any offence under Section 3 of SC/ST Act either. Moreover,

the complainant/victim, in this case, has not supported the prosecution version while testifying before the learned trial Court on 20.09.2017. The victim, it is submitted, has failed to identify the co-accused, Vikas, on whose disclosure statement the petitioner is sought to be inculpated. The petitioner is not involved in any other criminal case. He undertakes to face the proceedings and not abuse the concession of bail, if confirmed. He has joined investigation pursuant to interim order dated 30.05.2017 passed by this Court. It is, thus, prayed that this petition be allowed.

Learned counsel for the complainant does not deny that the victim has not supported the prosecution version before the learned trial Court. It is further not denied that the petitioner is sought to be inculpated only on the basis of the disclosure statement of the co-accused, Vikas.

Photocopy of the statement dated 20.09.2017 of the victim/complainant produced in Court today is taken on record subject to just exceptions.

I have also considered the contention regarding the bar to the grant of anticipatory bail in cases under the SC/ST Act, but do not find the same to be applicable in the present case. This Court in **Mohan Singh versus Satpal 2014 (28) R.C.R. (Criminal) 475** while referring to the decision of the Hon'ble Supreme Court in **Vilas Pandurang Pawar and Anr. v. State of Maharashtra and others 2012 (4) R.C.R. (Criminal) 761** allowed the concession of anticipatory bail in a case under the SC/ST Act to the petitioner therein. It is observed that a duty is cast on the Court to verify the averments and find out whether an offence under the SC/ST Act is made out.

Prima facie there do not appear to be any allegations against the petitioner to invite the rigours of the provisions of the SC/ST Act in the present case, though on considering the entire evidence, the learned trial Court may ultimately find the accused to be guilty.

Learned counsel for the State, on instructions from SI Satyawar, verifies that the petitioner has joined investigation and is not involved in any other criminal case.

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 noted above but without expressing any opinion on the merits of case, it is considered just and expedient to allow this petition. Consequently, order dated 30.05.2017 is made absolute.

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.

December 15, 2017

rts

**(Lisa Gill)**  
**Judge**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No