

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Criminal Misc. No.M-21173 of 2017(O&M)

Date of Decision: November 08, 2017.

Gurmeet

..... PETITIONER (s)

Versus

State of Haryana

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.S.K.Aggarwal, Advocate
for the petitioner.

Mr. Ramesh Kumar, AAG, Haryana.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No 416 dated 15.12.2016, under Sections 120-B, 363, 366-A IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Pundri, Kaithal.

It is submitted that the petitioner has been falsely implicated in this case registered at the instance of the father of the alleged victim. The complainant had levelled allegations not only against the petitioner but against his own wife as well in the said FIR. However, the complainant's wife is not being proceeded against. It is pointed out that the victim in her statement under Section 164 Cr.P.C. recorded on 17.12.2016 did not level any allegation attracting the rigours of Section 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012. Copy of the said statement is attached as Annexure P-2 with this petition. The victim's statement was recorded before the Child Welfare

Committee, Kaithal on the same day i.e. 17.12.2016 (Annexure P-7). She has categorically stated therein that no wrong had been committed against her. Yet again, in her statement before the D.S.P., Kaithal recorded on 22.12.2016, she never raised any kind of allegations against the petitioner except saying that the petitioner was earlier ready to get married to her, but later he refused. For the first time on 23.12.2016, the victim raised such allegations against the petitioner before the Child Welfare Committee, Kaithal. As per the said statement, the victim stated that she knew the petitioner prior to the incident in question. They had established physical relations with each other. Subsequently, the victim on 26.12.2016 suffered another statement before Child Welfare Committee, Kaithal stating that she had relations with one Saurav about three years ago who had made her habitual of taking drugs. The present petitioner is also stated to be visiting her house for the last 5 to 6 months and is stated to have established physical relations with her on the pretext of marriage. It is further stated that she became pregnant thereafter and she wanted to get aborted. She prayed for action against the accused persons.

It is submitted that the prosecutrix has since deposed before the learned trial Court as PW-4. PW-1, Member of Child Welfare Committee, Kaithal has also deposed before the learned trial Court. Their statements are attached as Annexures P-5 and P-6. Statement of the complainant, it is informed has also been recorded.

Learned counsel for the petitioner submits that there are serious discrepancies in the statements made by the victim. Moreover, the allegations regarding pregnancy of the victim were found to be false during investigation. The petitioner has been in custody since 26.12.2016 and is not involved in any

other criminal case. Therefore, this petition be allowed.

Learned counsel for the State submits that the victim in this case is a minor. However, it is not denied that at the outset no such allegations have been levelled by the victim or even on three occasions when her statements were recorded before the learned Judicial Magistrate Ist Class, Child Welfare Committee or DSP, Kaithal. Such allegations were raised for the first time on 23.12.2016 before the Child Welfare Committee, Kaithal. It is further not in dispute that the victim, complainant as well as the member of the Child Welfare Committee, Kaithal, have since testified before the learned trial Court. The effect/consideration of the above said, needless to say is in the domain of the learned trial Court.

Learned counsel for the State on instructions from HC Deepak, P.S. Pundri verifies that the petitioner is not involved in any other criminal case. No recovery is to be effected from him. Trial in this case is not likely to conclude in the near future. No useful purpose would be served by keeping the petitioner incarcerated any longer in the facts and circumstances of this 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 as above but without commenting upon or expressing any opinion on the merits of the case, this petition filed by petitioner-Gurmeet is allowed. The petitioner shall 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 clarified that 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.

It is made clear that the petitioner shall not attempt to contact the victim or any of family members directly or indirectly. Any infraction in this regard may entail cancellation of his bail.

08.11.2017
s.khan

[LISA GILL]
Judge

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