

Criminal Misc. M- No. 22937 of 2017 (O&M)

Date of decision : July 24, 2017

Pankaj

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rajat Gautam, Advocate for the petitioner.

Mr. Sanjay K. Saini, AAG, Haryana.

LISA GILL, J.

It is contended that the petitioner has been falsely implicated in FIR No. 40 dated 05.03.2017 under Sections 8 and 12 of Protection of Children from Sexual Offences Act, 2012 and Sections 451 & 506 IPC at Police Station Barauda, District Sonapat. Initially, the FIR is stated to have been registered under Sections 451 and 506 IPC. Thereafter, without any evidence the other sections were added.

It is contended that the petitioner was not named in the FIR. He has been inculcated merely on the basis of disclosure statement of the co-accused in this matter. Furthermore, the alleged victim PW1, PW2 maternal aunt and PW3 maternal uncle of the victim have not supported the prosecution version. The victim has specifically stated that the present petitioner is not known to her and neither did she identify him as an accused. The petitioner, it is submitted, is in custody since 05.03.2017. In this view of the matter, it is submitted that this petition be allowed.

Learned counsel for the State, on instructions, from SI Shri

Mohan, verifies that the petitioner has been nominated on the basis of

disclosure statement of the co-accused. There is no other evidence available against him. Learned counsel for the State is unable to deny that the victim PW1 as well as material witnesses PW2 and PW3 have not supported the prosecution version. They have been declared hostile. The victim has not identified the petitioner as one of the accused. Absence of any medical report in respect to the victim is verified as well. The petitioner, it is affirmed, 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 24, 2017
rts

(Lisa Gill)
Judge

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