

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

**Criminal Misc. No.M-25674of 2017(O&M)
Date of Decision: December 22, 2017.**

Vijay Kumar @ Bua

Petitioner.

Versus

State of Punjab

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vipul Aggarwal, Advocate
for the petitioner.

Mr.Rahul Rathore, DAG, Punjab.

LISA GILL, J.

Petitioner seeks the concession of bail pending trial in FIR No.197 dated 02.12.2016, under Section 363, 366-A IPC (Section 376 IPC added subsequently) and Sections 3, 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Division B, District Police Commissionerate.

It is submitted that the petitioner has been falsely implicated in this case. The victim was stated to be missing since 25.11.2016 after she left her home at 10.00.a.m. The complainant i.e. mother of the victim raised an apprehension that the petitioner had enticed her daughter on the pretext of marriage. FIR in this case was registered after an unexplained delay on 02.12.2016. The alleged victim was recovered in the company of the petitioner on 03.12.2016. It is submitted that the victim while testifying before the learned trial

Court has not supported the prosecution case. She has been declared hostile and subjected to cross-examination by the prosecution. The petitioner, it is submitted has been in custody since 03.12.2016 and is not involved in any other criminal case. It is thus prayed that this petition be allowed.

Heard learned counsel for the parties.

Learned counsel for the State has opposed this application while submitting that the question of consent or otherwise of the victim is irrelevant as she was under 18 years of age. It is submitted that the victim in her examination in chief supported the prosecution, but while being cross-examined, she has refused to even identify the petitioner and the co-accused i.e. his father. It is further not denied that the victim has specifically stated that the present petitioner is not guilty of the commission of any of the offences as mentioned above.

Photocopies of the statement of the victim, are taken on record subject to just exceptions. The effect or otherwise of the victim not supporting the prosecution case during cross-examination, needless to say shall be considered by the learned trial Court in the light of the entire evidence on record. The petitioner is not reported to be 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 Court, if released on bail. No useful purpose would be served by keeping the petitioner incarcerated any longer in the facts and circumstances of this case.

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-Vijay Kumar @ Bua, is allowed. 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/Duty Magistrate.

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.

22.12.2017
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.