

Criminal Misc. No. M- 28335 of 2017 (O&M)

Date of decision : November 01, 2017

Lalit Kishore

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. D.S. Malwai, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Ms. Amrinder Kaur Verma, Advocate
for the complainant.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 83 dated 25.03.2017 under Sections 376, 506 IPC registered at Police Station City Barnala, District Barnala.

It is submitted that the petitioner has been falsely implicated in this case. The complainant, it is submitted, is an accused in a number of other cases and the FIR has been registered merely to extort money. She is stated to be involved in FIR No. 33/ 2010, under Sections 452, 380, 436, 427, 148, 149 IPC, Police Station City Barnala, FIR No. 196 dated 09.06.2011, under Sections 341, 323, 148, 149 IPC, Police Station Chabal, FIR No. 303 dated 18.10.2015, under Sections 353, 186, Police Station City Barnala and FIR No. 40 dated 21.06.2012, under Section 21, 22 of the Narcotics Psychotropic Substances Act ('NDPS Act' – for short), Police Station Dhanaula.

As per the allegations in the FIR, the complainant was married on 20.08.2012 with one Raju son of Karam Singh against the wishes of her family. A case under the NDPS Act was registered against the complainant and two other persons on 21.06.2012 and she was incarcerated in the said matter. Three months thereafter, her husband was also booked in a case under the NDPS Act and sent to the jail. The complainant was, however, acquitted in FIR No. 40 dated 21.06.2012 under the NDPS Act on 17.08.2016. Thereafter, she started residing at Barnala. The petitioner came into contact with her and stated that he is a friend of her husband Raju. The petitioner stated that the complainant's husband – Raju has asked him to take care of his wife and on that pretext he started visiting her house and extended help in case of need. It is stated that about 15 days thereafter, he administered some intoxicant in juice to the complainant, took her obscene photographs, committed rape upon her and also prepared a video. Thereafter, the petitioner is alleged to have continued with physical violation of her person on the threat of disclosing the said videos and pictures to public. It is further stated that her husband was released from jail on 08.02.2017. The petitioner on 12.03.2017 at about 5 o'clock again committed rape upon her. The complainant's husband sought divorce from the complainant on this account. The petitioner thereafter continued violating her person on the assurance of marriage for the last 4/5 months. The above said FIR was registered on the said allegations,.

Learned counsel for the petitioner vehemently urges that even if the allegations in the FIR are taken to be correct, though specifically denied, the relationship, if any, between the petitioner and the complainant was clearly consensual. No offence is, thus, made out against the petitioner. The

petitioner has joined investigation pursuant to interim order passed by this Court. It is, thus, prayed that this petition be allowed.

Learned counsel for the complainant has vehemently opposed this petition, however, she is unable to deny that no protest was lodged by the complainant in this regard till the registration of the FIR.

Learned counsel for the State verifies that the complainant is involved in the above mentioned criminal cases though she stands acquitted in FIR No. 40 under the NDPS Act. It is informed that no obscene photographs or videos have been recovered in this case so far. Learned counsel for the State, on instructions from HC Baldev Singh, verifies that the petitioner has joined investigation. He 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 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 26.09.2017 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.

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 shall entail cancellation of his bail.

November 01, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No