

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

Criminal Misc. No.M- 28646 of 2017(O&M)

Date of Decision: October 9 , 2017.

Abhishek @ Abhi PETITIONER (s)

Versus

State of Haryana RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vijay Kumar Sheoran, Advocate
for the petitioner.

Mr. Sanjay K.Saini, AAG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No.217 dated 04.10.2016 under Section 346 IPC (challan presented for the offences punishable under Sections 346/363/366A/376/506 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012), registered at Police Station Badhra, District Bhiwani.

It is submitted that the petitioner, who is a young man of 19 years, has been falsely implicated in this case. Abovesaid FIR in respect to the missing of the complainant's daughter on the intervening night of 3rd and 4th

October, 2016 was lodged. There is no allegation against the petitioner in this FIR. The alleged victim was recovered on 04.10.2016 itself. In her statement under Section 161 Cr.P.C., she has raised allegations against one Rahul son of Anand. No allegation whatsoever has been raised against the present petitioner. The complainant and his wife i.e., the parents of the victim have also raised allegations against the said Rahul and not qua the petitioner. The victim in her statement under Section 164 Cr.P.C. (Annexure P5) reiterated the allegations against the Rahul. It is argued that there is not even a whisper against the present petitioner in the victim's statement under Section 164 Cr.P.C. The petitioner is sought to be inculpated on the basis of a CCTV footage at Railway Station, Bhiwani collected on 13.10.2016. It is alleged that the present petitioner was found accompanying the victim at the relevant time. Rahul s/o Anand, it is submitted, was declared innocent despite the allegations against him by the victim and the present petitioner was proceeded against.

Learned counsel for the petitioner argues that the said CCTV footage lacks clarity of picture and the petitioner cannot be identified from the said footage. Moreover, the victim herself never raised any allegations against the petitioner at any stage. The victim and the complainant have since testified before the learned trial court. The victim has raised allegations against the present petitioner in her statement before the learned trial court while at the same time admitting the statement she suffered under section 164 Cr.P.C. It is contended that, in fact, the victim and the complainant have compromised the matter with the said Rahul son of Anand as he is their neighbour and the present petitioner has been falsely implicated in this case. Therefore, this petition be

allowed.

Photocopies of the statements of the victim (PW2) and complainant (PW3) are taken on record subject to just exceptions.

Learned counsel for the State, on instructions from ASI Harsh Kumar, is unable to deny the factual position regarding the petitioner not being named at any point of time prior to the recovery of the CCTV footage at Railway Station, Bhiwani. It is not denied that the victim as well as her parents at the outset raised allegations against Rahul son of Anand and not against the petitioner.

Material witnesses including the complainant and victim have testified before the learned trial court. The petitioner, it is verified, is not involved in any other criminal case. He has been in custody since 14.10.2016. 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 Abhishek @ Abhi 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.

October 9 , 2017.
'om'

(LISA GILL)
JUDGE

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