

CRM-M-29702-2017

Date of Decision : 21.08.2017

Ashish @ Mohit

.....Petitioner

versus

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE LISA GILL**Present:** Mr. Akashdeep Singh, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

LISA GILL, JUDGE (ORAL)

Petitioner prays for the concession of bail pending trial in FIR No.144 dated 17.06.2017 under Sections 354, 452, 506, 34 IPC and Section 12 of POCSO Act (Sections 363/511 IPC added later on), registered at Police Station Baroda, District Sonapat.

It is submitted that the petitioner has been falsely implicated in this case primarily due to a dispute between parents of the complainant. It is submitted that at the outset, an application (Annexure P-1) was submitted by the complainant's father wherein no such allegations are raised which would attract rigours of the offences for which the petitioner is sought to be tried. The occurrence in question is alleged to have taken place on the intervening night of 6th and 7th June, 2017. Thereafter, the complainant/victim recorded her statement before the police on 19.06.2017 on the basis of which the above said FIR was registered. Statement under Section 164 Cr.P.C. was recorded on 19.06.2017 in consonance with the events as narrated in the

FIR. However, subsequently, on 28.07.2017, supplementary statement of the complainant/victim (Annexure P-4) was recorded wherein allegations attracting the provisions of Section 354 IPC and Section 12 of POCSO Act were raised for the first time. It is submitted that a perusal of the initial application by the complainant's father (Annexure P-1) reveals that there is a matrimonial dispute between the complainant's parents. In this application, it is merely mentioned that the petitioner came in the courtyard of the applicant and his daughter (victim) saw him and shouted, upon which they all woke up. The petitioner along with another ran away. The complainant's wife is alleged to be in adulterous relationship with the present petitioner. An apprehension was expressed that the petitioner was sent by the complainant's wife.

The victim in her statement dated 17.06.2017 on the basis of which the FIR was registered revealed that the petitioner tried to take her away by putting his hand on her mouth, but on her raising alarm, family members woke up and the petitioner ran away. She also refers to illicit relations of the petitioner with her mother and her father's effort to stop them. No allegations regarding commission of offences under Section 354 IPC or Section 12 of POCSO Act were raised. Such allegations were not raised even in the statement under Section 164 Cr.P.c. It is thus prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State, on instructions from ASI

Dhanraj, affirms and verifies that final report under Section 173 Cr.P.C. has

since been presented. The sequence of events, as above, is not disputed by the learned State counsel. It is further verified that the petitioner, who is about 19 years old, is not involved in any other 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 the petitioner 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.

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.

(LISA GILL)
JUDGE

21.08.2017

Neha

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No