

Criminal Misc. M- No. 32124 of 2016 (O&M)

Date of decision : March 24, 2017

Roopa

.....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Naresh Kumar, Advocate for
Mr. Ram Darshan Yadav, Advocate
for the petitioner.

LISA GILL, J.

The petitioner prays for cancellation of bail granted to respondent No. 2 pending trial in FIR No. 97 dated 03.04.2016 registered under Sections 363, 366A, 376 IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012 at Police Station City Rewari vide order dated 22.07.2016 by the learned Additional Sessions Judge, Rewari.

Learned counsel for the petitioner submits that the concession of bail has been wrongly afforded to respondent No. 2. It is further argued that respondent No. 2 is threatening the petitioner and her family members and she apprehends danger to her own life as well as that of the family members. Therefore, bail granted to respondent No. 2 should be cancelled.

I have heard learned counsel for the petitioner and have perused the file with his assistance.

It is relevant to note that the learned Additional Sessions Judge, Rewari while affording the benefit of bail pending trial expressed his

anguish on concealment of material facts by the prosecution. It is not in dispute that two statements of the victim under Section 164 Cr.P.C. were recorded. The first statement was recorded on 04.04.2016 wherein she has stated that she accompanied respondent No. 2 on her own and there was no violation of her person by the said respondent. She refused her medico legal examination. A specific request was made by her before the learned Magistrate for being sent to the Nari Niketan as she did not wish to accompany her parents. However, she was kept in police custody and thereafter another statement under Section 164 Cr.P.C. was recorded on the next day. In the second statement also, she did not claim that her person was violated but stated that respondent No. 2 attempted to do so. It is specifically observed by the learned Additional Sessions Judge that the learned public prosecutor had no answer as to why the prosecution in its return had not mentioned these facts and had simply chosen to mention the subsequent statement under Section 164 Cr.P.C. and the medico legal report. The Superintendent of Police, Rewari was directed to look into the matter and initiate suitable action against the official responsible for filing a misleading and incomplete return.

In respect to the argument regarding threats being meted out to the petitioner, no specific instance has either been pleaded nor brought to the notice of this Court at the time of arguments. Learned counsel for the petitioner candidly admits that there is no application or representation submitted in this regard to any of the authorities. Mere bald averments, which are totally unsubstantiated and not borne out from the file, cannot be

made the basis of cancellation of bail afforded to respondent No. 2 on 22.07.2016.

Learned counsel for the petitioner is unable to point out any ground whatsoever to indicate that respondent No. 2 has misused the concession of bail afforded to him.

Consequently, finding no merit this petition is dismissed. It is, however, open to the petitioner to avail her remedies, in case, respondent No. 2 violates any of the conditions of bail afforded to him at any stage.

March 24, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes/No