

Criminal Misc. No. M- 32742 of 2017 (O&M)

Date of decision : September 25, 2017

Parkash Lal

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Anter Singh Brar, Advocate
for the petitioner.

Mr. Devinder Bir Singh, DAG, Punjab.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 302 dated 14.09.2016 under Section 376 IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Zirakpur, District SAS Nagar, Mohali.

It is submitted that the petitioner has been falsely implicated in this case. As per the allegations in the FIR, the complainant had met the petitioner about one year prior to the incident in question. They developed a liking for each other. It is stated that on false assurance of marriage by the petitioner, physical relations were developed with the complainant. The complainant stated that she was three months pregnant at the time of registration of the FIR. When she asked the petitioner to marry her, he refused and asked her to go for an abortion. Thereafter, the present FIR was lodged at the instance of the complainant.

Learned counsel for the petitioner submits that the allegations of the complainant being pregnant were found to be patently false and incorrect. As per the ultrasound report (Annexure P5/1), the complainant

was not found to be pregnant at the time of examination. Urine test for pregnancy was found to be negative (Annexure P-4). Moreover, the complainant refused to undergo DNA test though the petitioner was ready and willing for the same. Moreover, it is debatable that the prosecutrix is 17 years old. Reference is made to opinion of Dr. Anju (Annexure P-5 and P-5/1). The petitioner has been in custody since 15.09.2016. The complainant and her brother have testified before the learned trial Court. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State while opposing this petition submits that the victim, in this case, was minor i.e. about 17½ years old at the time of the incident. However, the opinion of Dr. Anju (Annexure P-5/1) is not in dispute. It is mentioned therein that the complainant was not pregnant at the time of examination and her age was opined to be 17 years to 19 years on the basis of radiological examination. As per report Annexure P-4, it is mentioned that urine test for pregnancy is negative. It is verified that the prosecutrix as well as her brother have been examined before the learned trial Court. Five other prosecution witnesses have been examined and the rest are yet to testify before the learned trial Court. It is verified, on instructions from HC Ravinder Singh, that the petitioner is not involved in any other criminal case. The petitioner is in custody since 15.09.2016.

There are no allegations on behalf of the State that 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. Trial in this case is not likely to conclude in the near future.

No useful purpose shall be served by keeping the petitioner incarcerated any longer. 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, 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 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.

September 25, 2017
rts

(Lisa Gill)
Judge

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