

Criminal Misc. M- No. 34075 of 2016 (O&M)

Date of decision : January 31, 2017

Jodhbir Singh

.....Petitioner

Versus

The State of Punjab

....Respondent

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

Ms. Shivali, AAG, Punjab.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 198 dated 28.08.2015 registered under Sections 376/506 Indian Penal Code (for short 'IPC') (Section 376 IPC converted into Section 376-D IPC) and 6 of Protection of Children from Sexual Offences Act, 2012 at Police Station Jandiala, District Amritsar Rural.

Learned counsel for the petitioner contends that he has been falsely implicated because even as per the allegation, no action was taken by the prosecutrix for about one year as the first occurrence is stated to have taken place in July, 2014. In the FIR dated 28.08.2015, no role has been attributed to the present petitioner in the second alleged occurrence. Furthermore, the co-accused, Jasdeep Singh, has been granted anticipatory bail by this Court on 14.12.2016. Therefore, the petitioner, who is in custody since 06.11.2015, should be granted the concession of bail pending trial.

This petition is opposed by learned counsel for the State keeping in view the specific and serious allegations against the petitioner.

I have heard learned counsel for the parties.

As per FIR dated 28.08.2015, the prosecutrix aged about 17 years was subjected to rape in July, 2014 by the present petitioner alongwith Prabhjot Singh and one Arshdeep Singh. Thereafter, the present petitioner alongwith Jasdeep Singh and Khushminder Singh started harassing her as the petitioner had prepared a movie with his mobile phone in July, 2014. The prosecutrix on the strength of obscene photographs taken by the petitioner was compelled by Jasdeep Singh and Khushminder Singh in July 2015, to go to Sunrise hotel. She was subjected to rape by the said two persons. In her statement before the Court, the prosecutrix (PW1) after narrating the incident which took place in July 2014 and recording of the video by the petitioner, has stated that on 20.07.2015, the present petitioner threatened her to accompany him to Sunrise hotel. The accused Jasdeep Singh and Khushminder Singh violated her over there. There are serious allegations against the petitioner. The effect of the petitioner not being attributed any role in the second alleged incident in the FIR would be seen at the time of trial.

It is to be noted that the co-accused Arshdeep Singh is still at large and as per information from the learned counsel for the State, proceedings for declaring him a proclaimed offender have been initiated. Khushminder Singh and Jasdeep Singh were found innocent during investigation. Jasdeep Singh was summoned on an application under Section 319 Cr.P.C. Therefore, grant of anticipatory bail to Jasdeep Singh is of no avail to the present petitioner as his case is distinguishable.

Application under Section 319 Cr.P.C. for summoning Khushminder Singh is stated to be pending.

In the facts and circumstances of the case, I do not find any ground for granting bail pending trial to the petitioner in this case. It is, however, clarified that none of the observations made herein above shall be a reflection on the merits of the case and shall have no bearing on the trial.

The present petition is, accordingly, dismissed.

January 31, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes/No