

CRM-M No.33218 of 2017 (O&M)
Date of decision: November 24, 2017

Tinu **....Petitioner**

Versus

State of HaryanaRespondent

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. J.S. Kundu, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana
for the respondent-State.

LISA GILL, J.(ORAL)

Petitioner seeks concession of bail pending trial in FIR No.116 dated 01.04.2017 registered under Sections 323, 376, 452, 506 of Indian Penal Code, Police Station Sadar Sonipat.

It is submitted that the petitioner has been falsely implicated in this case. Complainant is admittedly 35 years old having a nine (9) year old child. She is divorced from her husband. Learned counsel for the petitioner submits that even as per the allegations in the FIR, complainant was in a relationship with the petitioner for the last four (4) years prior to the registration of the FIR in question. It is vehemently argued that the relationship if any (though not admitted) is entirely consensual in nature. No offence punishable under Sections 323, 376, 452, 506 IPC is made out against the petitioner. It is further submitted that the complainant is not coming forward to depose before the learned trial Court. This matter was specifically adjourned to 26th September, 2017 for today while noting that the prosecutrix in this case has been summoned for recording of her evidence on 11th October, 2017. It is informed that prosecutrix did not come forward for recording of her statement on the said date. Non-bailable warrants have been issued for

securing her presence before the learned trial Court. Petitioner it is stated is not involved in any other case. Therefore, this petition be allowed.

Heard learned counsel for the parties.

Learned State counsel is unable to deny that even as per the averments in the FIR, the complainant was in a relationship with the petitioner for 04 years prior to the registration of the FIR though, it is submitted that as per the allegations the petitioner allured her on the false promise of marriage. It is verified on instructions from ASI Amit that the prosecutrix did not come present before the learned trial Court for recording her testimony and non-bailable warrants have been issued for securing her presence. Petitioner is not reported to be involved in any other case. 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 incarcerating the petitioner any longer.

Keeping in view the facts and circumstances of the case but without expressing any opinion on the merits thereof, 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 bonds 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.

November 24, 2017
m. sharma

(LISA GILL)
JUDGE

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