

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM No. M-34425 of 2016
Date of decision: 08.03.2017**

Jabu @ Satish Kumar

..... Petitioner.

Versus

State of Punjab

..... Respondent.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. S.K. Choudhary, Advocate, for the petitioner.

Mr. S.S. Gill, DAG, Punjab.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No. 43 dated 10.08.2015 registered under Sections 363,366,376-D, 506 and 120-B of the Indian Penal Code (for short 'IPC') at Police Station Tibber, District Gurdaspur.

It is submitted that the petitioner is a cousin of the prosecutrix. As per the allegations in the FIR, the petitioner is alleged to have allured the prosecutrix from her home for getting her married to someone else. The prosecutrix was over 18 years of age at that time. Furthermore, the co-accused Vicky and Makhan against whom allegations attracting the offence punishable under Section 376-D of the IPC have been levelled have since been acquitted by the learned trial Court on 07.01.2017. Learned counsel submits it was revealed from judgment dated 07.01.2017 that the present petitioner has been declared to be a proclaimed offender. The petitioner was declared to be a proclaimed offender on 27.09.2016 i.e. after filing of the present petition. The pendency of the PO proceedings were not brought to the notice of the learned Additional Sessions Judge. A perusal of order dated 05.09.2016, passed by the learned Additional Sessions Judge,

Gurdaspur affirms this averment. Order dated 27.09.2016, declaring the petitioner to be a proclaimed offender, has been wrongly passed in violation of the mandatory provisions of law. Furthermore, the petitioner has joined investigation pursuant to order dated 27.09.2016 passed by this Court. Notice of motion was issued in this petition on 27.09.2016 itself and interim protection was afforded to him.

Learned counsel for the State on instructions from ASI Sukhjeet Singh affirms that the petitioner has joined investigation pursuant to order dated 27.09.2016 passed by this Court. The co-accused Vicky and Makhan have been acquitted by the learned trial Court on 07.01.2017. It is submitted that the custodial interrogation of the petitioner is not required.

In view of the fact that the petitioner has joined investigation, pursuant to order dated 27.09.2016 passed by this Court, the order of even date i.e. 27.09.2016 declaring him to be a proclaimed offender would be ineffectual.

Keeping in view the peculiar facts and circumstances noted above, as well as the statement on behalf of the State it is considered just and expedient to allow this petition. Consequently, order dated 27.09.2016 passed by this Court is made absolute.

(LISA GILL)
JUDGE

08.03.2017
PA

Whether speaking/reasoned : *Yes/No.*

Whether reportable : *Yes/No.*