

Criminal Misc. No. M- 34012 of 2017 (O&M)

Date of decision : November 24, 2017

Pawan Kumar

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms.Sharmila Sharma, Advocate for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 59 dated 14.02.2017 under Sections 363, 366A, 34 IPC registered at Police Station Kundli, District Sonipat.

It is submitted that no case under Sections 363, 366A, 34 IPC is made out against the petitioner. The above said FIR was registered on the statement of the complainant to the effect that her daughter had left home on 13.02.2017. An apprehension was raised that she was abducted by the present petitioner and one co-accused Raju. It is submitted that the alleged victim in her statement under Section 164Cr.P.C. (Annexure P-2) stated that she went with the petitioner out of her own accord. The victim specifically stated that she was physically abused by her mother and sister. She raised allegations against her own brother as well as brother-in-law. No allegations have been raised against the present petitioner by the victim in the statement under Section 164 Cr.P.C., though she has testified to the contrary before the learned trial Court as her custody was handed over to her parents. Therefore, she has been pressurised to suffer such a statement. Learned counsel for the

petitioner submits that the victim, had refused medical examination. She has testified by the learned trial Court. The co-accused Raju has been afforded the concession of bail pending trial before this Court on 30.05.2017 in CRM-M-18964 of 2017. Learned counsel for the petitioner submits that the petitioner is not involved in any other criminal case. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State, on instructions from ASI Ranbir Singh, verifies that the petitioner who has been in custody since 15.02.2017 is not involved in any other criminal case. The prosecutrix as well as the complainant has since testified before the learned trial Court. Ten (10) prosecution witnesses are yet to be examined. Trial, in this case, is not likely to conclude in the near future. Needless to say, the effect or otherwise of any discrepancy or contradiction in the statements of the witnesses is in the domain of the learned trial Court.

There are no allegations on behalf of the State that the 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.

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, however, clarified that the petitioner shall not try to contact the complainant or any of her family members in any manner - directly or indirectly. Any such infraction on the part of the petitioner shall entail cancellation of his bail.

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
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No