

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

CRM-M-34023 of 2017(O&M)

Date of decision : 08.11.2017

Sudhir

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Balkar Singh, Advocate
for the petitioner.

Mr.Ramesh Kumar, AAG, Haryana.

LISA GILL,J(Oral)

Petitioner seeks the concession of anticipatory bail in FIR No.40 dated 20.04.2017, under Section 323, 354(A)(1), 452 IPC (later on Section 376 and 377 IPC have been added), registered at Police Station Mohana, District Sonapat.

It is submitted that the petitioner was afforded the concession of bail pending trial in FIR by the learned Judicial Magistrate Ist Class, Sonapat. Thereafter, without any basis sections 376 and 377 IPC have been added. It is submitted that no such allegations were initially raised by the complainant, who is married having one child. The aforementioned sections were added subsequently purportedly on the basis of her statement recorded under Section 164 Cr.P.C. The said statement under Section 164 Cr.P.C., was also recorded on 21.04.2017 and the petitioner was granted bail pending trial by the learned Magistrate on 13.06.2017. The factum of Sections 376 and 377 IPC being added in the FIR was

never brought to the notice of the said Court. The petitioner, it is submitted has joined investigation. He is not involved in any other case. Therefore, it is prayed that this petition be allowed.

Learned counsel for the State, on instructions from ASI Jeet Singh, is unable to deny that initially Sections 376 and 377 IPC were not mentioned in the FIR and were added at the time of filing of the final report under Section 173 Cr.P.C., on 07.06.2017. The offences punishable under the said provisions are stated to added on the statement of the prosecutrix recorded under Section 164 Cr.P.C on 21.04.2017 itself. The petitioner is not reported to be involved in any other criminal case.

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.

Keeping in view the facts and circumstances as above, but without commenting upon or expressing any opinion on the merits of the case, this petition is allowed. Consequently, order dated 14.09.2017, is made absolute.

08.11.2017

s.khan

(LISA GILL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable:Yes/No