

Criminal Misc. No. M- 37226 of 2017 (O&M)

Date of decision : October 26, 2017

Atik Rehman

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Gautam Kailey, Advocate
for the petitioner.

Mr. Sanjay K. Saini, AAG, Haryana.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 151 dated 27.04.2016 under Sections 365, 302, 201, 34 IPC registered at Police Station Civil Line, District Sonipat.

It is submitted that the prosecution case rests entirely on circumstantial evidence. The daughter of the complainant was reported to be missing by the complainant on 26.04.2016. FIR under Section 365 IPC was initially registered on the said report of the complainant. Learned counsel for the petitioner submits that the only evidence against the present petitioner is the disclosure statement of the co-accused i.e. the step mother of the victim in question, pursuant to which the petitioner was arrested. As per the allegations of the prosecution, the petitioner and the victim's step mother had illicit relations. The victim was handed over to the petitioner by the stepmother. The petitioner thereafter did her to death, threw the dead

body in Gang Canal at Haridwar. There is no other evidence on record to inculcate the petitioner. The CCTV footage sought to be relied upon by the prosecution is of no avail as the petitioner does not figure therein. The dead body of the victim has not been recovered till date. Neither is there anything to show any efforts made by the prosecution to recover the said dead body. It is further submitted that the complainant, in this case, i.e. PW3 as well as material witness PW1 and PW2 have not supported the prosecution version. They have been declared hostile. Their statements are attached with this petition as Annexure P-4 (collectively). The petitioner has been in custody since 01.05.2016 and 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 Kuldeep Singh, is unable to deny that it is primarily the disclosure statement of the co-accused which is the evidence against the petitioner at this stage. It is not denied that the complainant PW3 and material witnesses PW1 and PW2 have not supported the prosecution version. The petitioner is not involved in any other criminal 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.

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 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.

October 26, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No