

Criminal Misc. No.M- 37236 of 2017 (O&M)

Date of decision : October 10, 2017

Umesh

.....Petitioner

Versus

The State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

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

Mr. Anmol Malik, AAG, Haryana.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 395 dated 09.10.2016 under Section 376 IPC registered at Police Station Rai, District Sonipat.

It is submitted that the petitioner has been falsely implicated, in this case, at the instance of the complainant. As per the allegations in the FIR, the complainant was living in a rented room on the third floor of a building in Pushpinder Colony alongwith her husband and three children. As per the allegations, she was sleeping in her room with her three children on 08.10.2016. The door of the room was open. Her husband had gone for Mata Ka Jagran. The petitioner who had been trying to talk to her since the past three months, on finding her alone with the children, came to her room. He violated her person forcibly. She narrated the incident to her husband when he returned. The present FIR was lodged on the next morning on 09.10.2016.

Learned counsel for the petitioner contends that the falsity of the prosecution version is apparent from a bare perusal of the FIR itself. The building in which the complainant and the petitioner are living consists of three floors and 45 rooms. The petitioner and the complainant are living on the same floor. Most of the rooms are occupied by the various tenants. It is highly improbable that in such a place and in the presence of three children in the room, the offence would have been committed without anybody coming to the aid of the victim. Learned counsel further submits that the victim was admittedly living in a single room with her children and husband. There being no separate kitchen etc., all household articles were in the small confines of this room. It is a matter of record that there was no sign of struggle at the place of incident. Moreover, no injuries were found on the person of the complainant to substantiate her plea. The prosecution version, it is submitted, rings hollow. The complainant has since testified before the learned trial Court. The petitioner is in custody since 09.10.2016. 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 Surender Kumar, verifies that the building, in which the complainant and the petitioner were living, consists of three storeys with 45 rooms and most of the rooms were indeed occupied at the time of the alleged incident. The prosecutrix has since testified before the learned trial

court. The petitioner is not reported to be involved in any other criminal case. Trial, in this case, is not likely to conclude in the near future.

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 10, 2017
rts

(Lisa Gill)
Judge

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