

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

Criminal Misc. No.M- 37466 of 2017(O&M)

Date of Decision: December 13 , 2017.

Daljit Singh @ Daljeet Singh

..... PETITIONER (s)

Versus

State of Punjab

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.78 dated 23.03.2017 under Sections 363/366A/376 of the Indian Penal Code ('IPC' – for short), under Sections 3/4 of the Protection of Children from Sexual Offences Act, 2012, Sections 3/4 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SC/ST Act' – for short) and Sections 67/67A of the Information Technology Act, 2000, registered at Police Station Sadar Nakodar, District Jalandhar.

It is submitted that the petitioner, who was not named in the abovementioned FIR, has been falsely implicated in this case. Allegations in the FIR were raised only against one Navjot Singh @ Jyoti. The alleged victim was stated to gone have missing on the intervening night of 22nd and 23rd March, 2017. The petitioner's name figured after a number of days in the statement of

the victim recorded under Section 164 Cr.P.C. on 28.03.2017. Learned counsel for the petitioner further points out that all the co-accused in this case have been acquitted by the learned Additional Sessions Judge, Jalandhar on 20.11.2017. The alleged victim in this case while deposing as PW1 has not supported the prosecution case. It is specifically stated by her that she was never kidnapped or subjected to rape by any one neither was any movie or CD prepared. In her cross-examination, it is specifically stated by the victim that the accused including the present petitioner are not guilty of the commission of offences as alleged. The petitioner undertakes to face the proceedings and not misuse the concession of anticipatory bail, if afforded to him. Therefore, it is prayed that this petition be allowed.

Photocopies of the statement of the victim PW1 recorded on 09.11.2017 as well as judgment dated 20.11.2017 passed by the learned Additional Sessions Judge, Jalandhar, furnished in Court today, are taken on record subject to just exceptions.

Heard learned counsel for the parties.

Learned counsel for the State is unable to deny the acquittal of the other co-accused by the learned trial court as well as the statement of the victim recorded on 09.11.2017 whereby she has not supported the prosecution version qua any of the accused persons. All the other similarly situated co-accused have since been acquitted by the learned trial court on 20.11.2017. Detailed reasons were recorded in order dated 26.05.2017 passed in CRM No.M-16330 and 12624 of 2017 (Annexure P2) vide which the concession of anticipatory bail has been afforded to similarly situated co-accused Sukhwinder Singh @ Sukha and

Sukhpal Singh.

In respect to the bar of grant of anticipatory bail under the SC/ST Act, it has been held by the Hon'ble Supreme Court in **Vilas Pandurang Pawar and Anr. v. State of Maharashtra and others, 2012(4) R.C.R. (Criminal) 761** a duty is cast on the Court to verify the averments and find out whether an offence under the SC/ST Act is made out. Prima facie, there do not appear to be any allegations against the petitioner to invite the rigours of the provisions of the SC/ST Act in the present case, though on considering the entire evidence, the learned trial Court may ultimately find the accused to be guilty.

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 before 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. In the event of arrest of the petitioner, he be released on bail to the satisfaction of the Arresting/Investigating Officer. Petitioner shall join investigation as and when required by the Investigating Agency as well as comply with the conditions stipulated in Section 438(2) Cr.P.C.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

December 13, 2017.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No