

Criminal Misc. No. M- 38683 of 2017 (O&M)

Date of decision : October 25, 2017

Shakir Ali

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Liaqat Ali, Advocate for the petitioner.

Mr. Rahul Rathore, DAG, Punjab.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 1 dated 01.01.2017 under Sections 417, 376, 377 IPC and Sections 4, 5, 6 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Division No. 6, Ludhiana.

It is contended that the complainant/victim, in this case, is major. The birth certificate relied upon by the prosecution was procured on 30.12.2016 i.e. two days prior to the lodging of the FIR whereas the Aadhar card of the complainant prepared much prior thereto in Uttar Pradesh reflects her date of birth as 01.01.1996. It is, thus, submitted that the complainant is major and in this situation, even if for the sake of arguments, the averments taken in the FIR are accepted, the relationship between the petitioner and the complainant (though not admitted) was entirely consensual. Learned counsel for the petitioner further submits that there is nothing on record to show any treatment of the complainant at Satyam Hospital, Singar road as alleged. The complainant in her statement under Section 164 Cr.P.C. went on to level allegations of violation of her person against one Aalam alongwith the petitioner. Moreover, the final report

under Section 173 Cr.P.C., in this case, has been presented. 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 Jagdish Raj, while opposing this petition, submits that the complainant, in this case, is a minor, her date of birth being 05.07.1999 as reflected in the birth certificate. Learned counsel for the State is, however, unable to deny that the said birth certificate was issued on 30.12.2016. It is further not denied that there is nothing on record to reflect the treatment of the complainant at Satyam hospital. It is verified that the petitioner is not involved in any other criminal case. Final report under Section 173 Cr.P.C. stands presented. The veracity of the said document/documents shall, needless to say be tested before the learned trial Court.

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, however, directed 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.

October 25, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No