

CRM-M No. 40466 of 2016 (O&M)

Date of decision : February 27, 2017

Mahabir @ Mungiya

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Sukhvir Singh Sahu, Advocate
for the petitioner.

Mr. R.K. Doon, AAG, Haryana.

LISA GILL, J.

Prayer is for bail pending trial to the petitioner in FIR No. 44 dated 27.05.2016 registered under Section 376 (2)(L) IPC at Police Station Women Fatehabad, District Fatehabad.

It is submitted that the petitioner was falsely implicated in this FIR. In fact, the complainant Prem Kumar has not supported the prosecution case. The other material witnesses namely Vinod Kumar and Ganga Ram have also not supported the prosecution version. As per the allegations in the FIR, it is wrongly mentioned that the petitioner was witnessed by the complainants while violating the prosecutrix, who is of unsound mind. It is, thus, prayed that this petition be allowed.

This petition was adjourned to await the report of the Forensic Science Laboratory in respect to the DNA profile. A photocopy of report dated 17.02.2017 has been produced by the learned counsel for the State.

The same is taken on record, subject to just exceptions. The conclusion of

the said report reads as under:-

“ The Autosomal STR analysis indicates that the DNA profile of semen stains on Source of item No. 1 (Petticoat) is not matching with the DNA profile of Mahaveer (Source of item No. 6) and conclusively proves that they are not of same biological origin.”

Learned counsel for the State does not dispute that the above said persons have not supported the prosecution case and the DNA report qua the petitioner is negative.

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. It is not denied that he is in custody since 28.05.2016. No useful purpose shall be served by keeping the petitioner incarcerated any longer.

Keeping in view the facts and circumstances of the case but without expressing any opinion on the merits of case, it is considered just and expedient to allow this petition.

Consequently, the petitioner shall be released on bail pending trial subject to his furnishing requisite bail bonds and surety bonds to the satisfaction of the learned trial Court.

It is, however, clarified that none of the observations made herein above shall be a reflection on the merits of the case and shall have no bearing on the trial.

February 27, 2017
rts

(Lisa Gill)
Judge

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