

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

Criminal Misc. No.M- 40861 of 2017(O&M)

Date of Decision: November 28 , 2017.

Rinku PETITIONER (s)

Versus

State of Punjab RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No.56 dated 26.06.2016 under Sections 363/366 IPC and Sections 3/4 of the Protection of Children from Sexual Offences Act, 2012 (for short, the 'POCSO Act'), registered at Police Station Lambra, District Jalandhar (Rural).

It is submitted that the petitioner and the complainant's daughter had friendly relations. Earlier FIR No.89 dated 16.09.2015 under Sections 363/366A IPC read with Sections 4/8 of the POCSO Act was registered against the petitioner on the statement of the complainant (father of the victim). The victim in her statement under Section 164 Cr.P.C. in the said case specifically stated that

she had accompanied the petitioner out of her own accord. She was in love with

him and wanted to marry him, but her family was not agreeable as they belong to different communities. She belongs to the Jatt community and the petitioner belongs to the Scheduled Caste community. It is submitted that the present FIR was registered on 26.06.2016 by the complainant i.e., victim's father stating that his daughter had left home on 24.06.2016 at 6.30 a.m. without informing anyone. The complainant raised a doubt that his daughter had been abducted by the petitioner for marrying her.

The victim, it is stated, has since testified before the learned trial court as PW2. She specifically mentioned that she proceeded to Shri Harmandir Sahib, Amritsar on her own, though the petitioner had asked her to come to his house. She remained at Shri Harmandir Sahib for 3-4 days and did Seva there during these days. The victim's parents reached there and took her back home. It is further submitted that there is no promise of marriage by the petitioner neither did he accompany the victim from her residence to Shri Harmandir Sahib at Amritsar. It is submitted that the victim refused to give the details of the telephone number on which she allegedly received a phone call from the petitioner pursuant to which she left her residence. No allegations, it is submitted, have been raised by the victim attracting the rigours of Sections 3/4 of the POCSO Act. The petitioner has been in custody since 29.06.2016. He is not involved in any other criminal case except the earlier FIR which was registered at the instance of the present complainant. Material witnesses in this case i.e., the complainant and the victim have since testified before the learned trial court. Therefore, it is prayed that this petition be allowed.

Photocopies of the statements of the victim before the learned trial

court in this case as well as under Section 164 Cr.P.C. in FIR No.89 dated 16.09.2015, produced in Court today, are taken on record subject to just exceptions.

Learned counsel for the State is unable to deny that the complainant and the victim have since testified before the learned trial court. Pendency of the earlier FIR No.89 dated 16.09.2015 as well as the statement of the victim in that case under Section 164 Cr.P.C. have also not been denied. Learned counsel for the State, on instructions from ASI Narinder Kumar, verifies that the petitioner is not involved in any other criminal case. He is in custody since 29.06.2016.

Trial in this case is not likely to conclude in the near future. 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 filed by Rinku is allowed. 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 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.

(LISA GILL)
JUDGE

November 28 , 2017.
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No