

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

**CRM No. M-43904 of 2016
Date of decision: 07.04.2017**

Rakesh @ Sethi
State of Haryana

Versus

..... Petitioner.
..... Respondent.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. A.S. Barnala, Advocate, for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

LISA GILL, J.

The petitioner prays for grant of bail pending trial in FIR No. 22 dated 29.03.2016 registered under Sections 354-D, 365, 511, 34 of the Indian Penal Code (for short 'IPC') and Section 12 of the Protection of Children from Sexual Offences Act (for short 'POCSO Act') at Police Station Women Kaithal, District Kaithal.

As per the allegations in the FIR, the victim and her grand-mother (complainant) were returning home on 26.02.2016 from work. The present petitioner along with two others came on a motorcycle and forcibly took the victim with them. The complainant reached home but did not find her grand-daughter at home. It is stated by the complainant that the victim in order to save herself jumped from the motorcycle. She suffered an injury on her waist. The three accused persons ran away from the place and two other persons brought her home. It is contended that the version in the FIR is improbable as it is not possible that the grand-mother would not have taken any steps on having witnessed such an incident and would have quietly returned home. Furthermore, the learned trial Court dismissed the petitioner's bail application on 31.05.2016 on the ground that the victim is still to be examined. The examination-in-chief of the victim was conducted

on 24.10.2016, thereafter she has not come forward for her cross-examination. The petitioner, it is submitted, is in custody since 16.04.2016 and he is not involved in any other case. It is thus, prayed that this petition be allowed.

Learned counsel for the State on instructions from ASI Paramjit Singh affirms that the examination-in-chief of the victim was conducted on 24.10.2016. It is further affirmed that the cross-examination of the victim has not yet been conducted. It is not denied that even on the last two dates i.e. 10.03.2017 and 06.04.2017 the victim did not come forward to depose. Bailable warrants were issued to secure her presence for 06.04.2017. It is submitted that an application seeking exemption was moved by the victim on the ground that she is not feeling well. It is not disputed that the petitioner is not involved in any other case.

Heard learned counsel for the parties.

It is evident that trial in this case is not likely to conclude in the near future. The petitioner is not involved in any other case. The examination-in-chief of the victim has since been conducted. She has not come forward for her cross-examination. There is no allegation that the petitioner is likely to abscond or influence witnesses to dissuade them from deposing true facts in Court. Therefore, in the facts and circumstances of the case, without expressing any opinion on the merits of the case, it is considered just and expedient to allow this petition.

Consequently, the petitioner shall be released on bail pending trial in case FIR No. 22 dated 29.03.2016 registered under Sections 354-D, 365, 511, 34 of the IPC and Section 12 of the POCSO Act at Police Station Women Kaithal, District Kaithal subject to his furnishing requisite bail bonds and surety bonds to the satisfaction of the learned trial Court. The

petitioner shall not, directly or indirectly, try to contact the victim or the witnesses in any manner. In case of misuse of concession of bail by the petitioner, it shall be open to the victim to seek cancellation of his bail.

None of the observations in this order shall be construed to be a reflection on the merits of the case and shall have no bearing on the trial.

07.04.2017

PA

Whether speaking/reasoned

Whether reportable

:

:

Yes/No.

Yes/No.

(LISA GILL)

JUDGE