

Criminal Misc. M- No. 44945 of 2016 (O&M)

Date of decision : July 31, 2017

Kulwinder Singh

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vaibhav Narang, Advocate
for the petitioner.

Ms. Monika Jalota, DAG, Punjab.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 99 dated 20.05.2016 registered under Section 376 IPC at Police Station City Tarn Taran, District Tarn Taran.

The arguments raised on behalf of the petitioner were noted by this Court on 23.03.2017. Order dated 23.03.2017 reads as under:-

“ It is contended that the petitioner has been falsely implicated in this case. The petitioner was supporting Gian Singh whose son, namely, Avtar Singh was murdered. The prosecutrix is the accused in the case of murder of Avtar Singh. It is submitted that a week prior to the registration of the present FIR on 20.05.2016, apprehension had been expressed by the petitioner that he may be implicated in a false case. Reference is made to certain newspapers reports, Annexure P5 (Collectively). The incident alleged in the FIR is of 12.02.2016. No explanation is forthcoming as to why the prosecutrix remained silent till 20.05.2016. Furthermore, despite a number

of opportunities having been granted, the prosecutrix is not coming forward to depose before the learned trial court. Therefore this petition should be allowed.

The present petition was adjourned on various occasions to ensure that the prosecutrix is examined. Certified copies of the Zimni orders of the learned trial court have been produced in Court today. It is contended that the prosecutrix did not appear before the trial court on a number of occasions. Bailable warrants were also issued on one occasion. The prosecutrix refused to depose on the ground that she was not feeling well on 10.01.2017. Even on the last date before the learned trial court i.e. 14.03.2017, an application for exemption from appearance was moved by the prosecutrix and the matter has now been fixed for 29.03.2017.

In the interest of justice, this matter is adjourned to 31.03.2017.

The learned trial court to ensure the examination of the prosecutrix on the said date.

Non-examination of the prosecutrix would not afford the State a basis for any further adjournment in this case.”

It is informed that the prosecutrix, in this case, has since been examined. Her statement is attached with this petition as Annexure P-7.

Learned counsel for the petitioner submits that the alleged victim, in her cross examination, has admitted that the petitioner was trying to get the matter compromised between her and family of Gian Singh till the date, though it is denied by her that it is due to his failure and in order to pressurise him that he is involved in the present case. It is further submitted that the victim has admitted that she did not mention in her statements recorded before the police or the Magistrate that she stayed in the house of

the petitioner for about 3½ months. The victim, it is urged is facing trial

in FIR No. 10 dated 11.01.2016 along with her father. Her brother, a co-accused in the said case is still at large. The present petitioner, it is submitted, is not involved in any other criminal case and he has been falsely implicated in this case. Furthermore, the prosecutrix has already been examined. Further incarceration of the petitioner shall, therefore, serve no purpose. It is, thus, prayed that this petition be allowed.

Learned counsel for the State, on instructions, from ASI Kulwinder Pal, affirms and verifies that the victim, in this case, has testified before the learned trial Court. A copy of her statement is attached as Annexure P-7 with this petition. Pendency of FIR No. 10 dated 11.01.2016 wherein the victim is an accused along with her father and brother is also not disputed. The petitioner, it is verified, is not involved in any other criminal case.

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. Trial in this case is not likely to conclude in the near future.

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 bonds to the satisfaction of the learned trial Court.

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.

July 31, 2017
rts

(Lisa Gill)
Judge

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