

Criminal Misc. No. M- 48180 of 2017 (O&M)

Date of decision : December 21, 2017

Gurvinder Singh alias Billa

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vipul Joshi, Advocate for
Mr. P.S. Ahluwalia, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 101 dated 12.05.2017 under Sections 363, 376, 376A IPC and Sections 3, 4 of Protection of Children from Sexual Offences Act, 2012 ('POCSO Act' – for short) registered at Police Station Women Urban Estate, Patiala, District Patiala.

It is submitted that no offence attracting the rigours of Sections 376, 376A IPC or Sections 3, 4 of POCSO Act is made out against the petitioner. As per the allegations in the FIR, the present petitioner is stated to have allured the complainant's daughter and made her run away on the pretext of marriage. She has reported to have gone missing on 12.05.2017. The victim was recovered on 06.06.2017 from Amritsar.

Learned counsel refers to the statement of the victim recorded under Section 164 Cr.P.C. wherein she has stated that the present petitioner offered to drop her at school on 12.05.2017 at 7.00 a.m. The school bus was signalled away by him. One of her aunt, who had seen her accompanying the petitioner, called up her father and informed him. The petitioner

received his wife's call and he dropped the victim near the 'bank branch' (which as per learned counsel for the petitioner is near the victim's school indicating that she was indeed dropped by the petitioner at her school). The victim's father, it is stated, was standing there with his Activa near the school gate. However, out of fear she did not go there. The victim stated that she proceeded towards City Mall and, thereafter, reached to Amritsar. She then proceeded to Jalandhar bye pass, Ludhiana where she met a boy named Gopi. The victim told Gopi that her uncle (Taya) Ajmer Singh was living there but he could not be located. Gopi dropped her at the house of his friend Sonu Yadav, who was with his friend Poonam. A fight ensued between Sonu and Poonam. Sonu was loading the vehicle (Chota Hathi). The victim sat in the vehicle with Sonu and owner of the vehicle namely Baljit Kumar who inquired about her family's phone numbers which the victim did not reveal. The victim was sent to his wife who provided her with clothes. The victim asked to be sent to Amritsar to her uncle (Taya). She was dropped at the railway station and she ultimately reached Amritsar. She came in touch with one Nihang in Manji Sahib Diwan Hall, who was referred to by various names i.e. Rajandeep, Raju, Balwinder, Gurvinder Singh etc. Allegations of rape are levelled against the said accused. The victim was ultimately recovered on 06.06.2017 from Amritsar.

Learned counsel for the petitioner submits that the co-accused Gurvinder Singh @ Rajandeep is in custody. No overt act has been attributed to the present petitioner, who had merely dropped the victim till her school. The petitioner, it is submitted is not involved in any other criminal case. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State, at this stage, is unable to deny that the factual position or the statement of the victim under Section 164 Cr.P.C. (Annexure P-3). The petitioner is not reported to be 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.

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, clarified that the petitioner shall not try to contact the complainant/any of her family members/witnesses of the case 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.

(Lisa Gill)
Judge

December 21, 2017

rts

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No