

Criminal Misc. M- No. 493 of 2017 (O&M)

Date of decision : February 07, 2017

Sumit

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

LISA GILL, J.

Prayer in this petition is for grant of bail pending trial to the petitioner in FIR No. 54 dated 03.09.2016 registered under Sections 376 (2) (n), 506 Indian Penal Code (for short 'IPC') at Police Station Rohtak, District Rohtak.

Learned counsel for the petitioner vehemently argues that the petitioner and the alleged victim i.e. the complainant had friendly relations. Both of them were students of first year of B.Sc. The FIR in question was registered after a delay of about three months. He also refers to the statement of the complainant under Section 164 Cr.P.C. wherein she has stated that in case the petitioner is ready to marry her, she would compromise the matter. Therefore, in this situation the petitioner is not liable to be proceeded against under Section 376 (2)(n) IPC.

Reference is made to a judgment of the Hon'ble Supreme Court in **Vijayan versus State of Kerala (2009) 3 SCC (Cri) 585** and it is submitted that the present is an obvious case of consent. The petitioner has been in custody since 21.09.2016. Therefore, this petition be allowed.

Learned counsel for the State, on instructions from ASI Bimla Devi, Police Station Women Rohtak verifies the authenticity of the statement under Section 164 Cr.P.C. as reproduced in this petition as well as the period of custody of the petitioner.

I have heard learned counsel for the parties .

It is not disputed that the complainant did not turn up before the learned trial Court on 25.01.2017 i.e. the date fixed for recording of her testimony. There are no allegations on behalf of the State that petitioner is likely to abscond, 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 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.

February 07, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes/No