

Criminal Misc. M- No. 529 of 2017 (O&M)

Date of decision : June 02, 2017

Veerpal @ Veeru Singh

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Hitesh Verma, Advocate
for the petitioner.

Mr. Deep Singh, AAG, Punjab.

LISA GILL, J.

Prayer is for bail pending trial to the petitioner in FIR No. 41 dated 10.08.2016 registered under Sections 328, 457, 380, 354, 376, 511, 354A, 34 IPC at Police Station Thuliwal, District Barnala.

Report of the learned trial Court has been received and the same is perused.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated due to party faction and particularly due to a dispute between the petitioner's father and the Sarpanch of the village. It is urged that at the outset there is no allegation in the FIR attracting the rigours of Sections 354, 354A, 376 read with Sections 511 IPC. In the FIR, the complainant stated that when she was sleeping in her house at 11.00 p.m. on 05.08.2016, the petitioner and two unknown persons scaled the wall of her house. They tried to make her unconscious by putting some intoxicating substance in a cloth. She raised a hue and cry, on which

the petitioner and his companions fled. They took a mobile phone as they fled. It is only in her statement recorded on 16.08.2016 that the complainant raised an allegation against the petitioner to the extent that there was an attempt to violate her person on 04.08.2016 at 11.00 p.m. Furthermore, it is urged that it is improbable that when the complainant raised hue and cry in the midst of habitation none from the neighbourhood came to her aid. It is the complainant's case that she revealed the incident to her mother-in-law and the Sarpanch of the village on the next morning. This conduct again seems unnatural. Furthermore, there is no medical evidence on record to substantiate her case. Furthermore, the material witnesses i.e. the prosecutrix aged 40 years – PW1 and her mother-in-law – PW2 have been examined. The petitioner, it is stated, is in custody since 04.09.2016. 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 Harjinder Singh, verifies that Section 376 read with Section 511 IPC were added subsequently after recording of the statement of the complainant on 16.08.2016. It is further informed that Section 354A IPC has been added on 29.10.2016. It is affirmed that there is no medical evidence on record. Learned counsel for the State further verifies that PW1 - the prosecutrix as well as PW2 - her mother-in-law have since been examined before the learned trial Court. Thirteen (13) prosecution witnesses are yet to be examined.

On oral request of learned counsel for the petitioner, Section 354A is directed to be added in the headnote as well as the prayer of this petition.

The trial, in this case, is not likely to conclude in the near future. 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 solved 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.

June 02, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes/No