

Criminal Misc. No. M- 11632 of 2018 (O&M)

Date of decision : March 23, 2018

Balbir Singh

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Karan Garg, Advocate for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 46 dated 28.02.2017 under Sections 376/451 IPC (charges framed under Sections 376/458 IPC) registered at Police Station Nathana, District Bathinda.

As per the allegations in the FIR, the petitioner trespassed in the house of the complainant, aged about 34 years, who is a house wife, having children on the intervening night of 14/15.02.2017. The petitioner is alleged to have entered the complainant's house by scaling the wall. It is stated that the complainant/prosecutrix came out of her room and saw the petitioner standing there. The petitioner allegedly pushed her, muffled her face and committed rape upon her. Thereafter, he ran away after scaling the wall again. The complainant thereafter raised hue and cry after removing the cloth from her face, upon which her brother-in-law and other persons gathered at the spot. The complainant's husband, it is stated, had gone in connection with his work and returned next morning on 15.02.2017 at 9.00 a.m. The matter was revealed to him and thereafter reported to the Panchayat. On 27.02.2017, the complainant got her medical examination conducted after obtaining an order from the Court. Thereafter, the present FIR was registered on 28.02.2017.

Learned counsel for the petitioner vehemently argues that the petitioner has been falsely implicated in this case. There is an unexplained delay of 14 days in lodging of the FIR. The version given in the FIR is highly improbable as it is not possible for the petitioner to have scaled the wall at night, committed the offence and thereafter escaped again without anybody coming to know of the same. This is especially so for the reason that the younger brother-in-law (devar) and children of the prosecutrix were all present in the house. It is further submitted that there is no medical evidence to substantiate the allegations. Moreover, the prosecutrix, her husband as well as the doctor, in this case, have since been examined before the learned trial Court. It is submitted the petitioner has been in custody since March, 2017. He is not involved in any other criminal case. It is, thus, prayed that this petition be allowed.

Photocopy of the statement of the prosecutrix furnished in Court today is taken on record subject to just exceptions.

I have heard learned counsel for the parties.

Learned counsel for the State, on instructions from HC Rajeev Kumar verifies that the prosecutrix as well as the material witnesses, in this case, have since been examined. On instructions from HC Rajeev Kumar, it is verified that the petitioner is not involved in any other criminal case. Trial in this case is not likely to conclude in the near future. Needless to say that medical evidence shall be considered by the learned trial Court at an appropriate stage. No opinion is being expressed on the merits of the 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 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.

March 23, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No