

CRM No. M-13124 of 2017

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM No. M-13124 of 2017
Date of Decision : 25.01.2018

Gurdial Singh@ Gopy

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. D.S. Sandhu, Advocate for the petitioner.

Ms. Monika Jalota, Deputy Advocate General, Punjab.

Mr. Prateek Pandit, Advocate for the complainant.

Lisa Gill, J.(Oral)

The petitioner seeks the concession of bail pending trial in FIR No. 119 dated 22.07.2016, under Sections 306, 34 IPC, registered at Police Station Sultanpur Lodhi, District Kapurthala.

The petitioner is the husband of the deceased. It is submitted that marriage between the petitioner and the complainant's sister was solemnized 10 years prior to the unfortunate incident. Two children were born out of the said wedlock. As per the allegations in the FIR, the petitioner had developed illicit relations with one Jasvir Kaur @ Jassi 6 years prior to the registration of the FIR. Due to this reason, there was altercation between the complainant's sister and the petitioner. Some litigation is stated to be initiated by the complainant's sister against the petitioner. It is stated that due to the illicit relations

maintained by the petitioner, the complainant's sister committed suicide.

Learned counsel for the petitioner argues that it is debatable whether the offence punishable under Section 306 IPC is made out against the petitioner while referring to the judgment of the Hon'ble Supreme in the case of *K.V. Prakash Babu Vs. State of Karnataka*, 2015(11) SCC 753, wherein it is observed that extra marital relations may not necessarily in every situation form the foundation or constitute the ingredients to reflect the commission of offence punishable under Section 306 IPC by the husband. Moreover, it is submitted that the petitioner has been in custody since 22.07.2016. Material witnesses in this case including the complainant have been examined. Learned counsel prays that this petition may, thus, be allowed.

Learned counsel for the complainant has vehemently opposed this petition while submitting that the present petitioner has even fathered a child with the said Jasvir Kaur @ Jassi. There are allegations of forgery in respect of certain documents showing himself to be the father of children of Jasvir Kaur @ Jassi. In that respect a separate FIR has been registered against the petitioner.

Be that as it may, it is not denied that the extra marital relations of the petitioner with Jasvir Kaur @ Jassi are alleged to have developed 06 years prior to the unfortunate occurrence.

Learned counsel for the State on instructions from HC Balwant verifies that the complainant as well as the material witnesses have testified before the trial Court. It is verified that

the petitioner is not involved in any other case except present and FIR No. 188 dated 08.11.2016 as referred to by learned counsel for the complainant.

The trial in this case is not likely to be conclude in the near future. There are no allegations that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in Court, if released on bail.

Keeping in view the facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, this petition filed by petitioner-Gurdial Singh @ Gopy is allowed. 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/Duty Magistrate.

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.

January 25, 2018
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(LISA GILL)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>