

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Criminal Misc. No.M- 1337 of 2017(O&M)

Date of Decision: February 02 , 2018.

Deepak Kumar PETITIONER (s)

Versus

State of Punjab RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Gautam Dutt, Advocate
for the petitioner.

Ms. Seena Mand, DAG, Punjab.

Mr. D.D.Sharma, Advocate
for the complainant.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.3 dated 02.01.2017 under Section 376 IPC, registered at Police Station Zirakpur, District SAS Nagar (Mohali).

Detailed order was passed by this Court on 15.02.2017 while affording interim relief to the petitioner. The relevant extract of the same, reads as under:-

“Counsel for the petitioner would contend that the complainant is the sister-in-law (wife's Bhabhi) of the petitioner and is working as

a Teacher in Government Senior Secondary School, Mudo Sangatian, S.A.S. Nagar. As per the allegations brought-forth by the prosecutrix, the petitioner committed sexual assault for the first time in April, 2014 and the second incident occurred in November, 2015 but the complaint was made by her on 01.09.2016. It is further argued that an enquiry was conducted and as per the findings recorded therein, the complainant developed physical relations with the petitioner with her consent. It is argued with vehemence that as the complainant who is working as a Teacher did not express any grievance against alleged misconduct of the petitioner for a period of more than 02 years since the first occurrence of April, 2014, it creates a doubt in her story that she was subject to rape forcibly much less without her consent. It is argued that the petitioner is ready to join investigation and co-operate throughout.

Counsel for the State of Punjab assisted by Mr. D.D. Sharma, Advocate, counsel for the complainant has submitted that taking into consideration gravity of allegations levelled against the petitioner, he is not entitled to concession of pre-arrest bail. It is further argued that recovery of mobile phone of the petitioner containing a video clip of their physical relationship is yet to be effected.

I have heard counsel for the parties and perused the allegations raised in the FIR.

The complainant and the petitioner are working as Teachers. As per the story propounded by the complainant, in April 2014, the petitioner insisted for showing his newly bought flat at Zirakpur. As husband of the complainant was busy, she requested Deepak to take her to a shop in Chandigarh for shopping and she agreed to see his flat. Deepak committed rape by making her unconscious by offering her a cold drink. Second time, the complainant went to meet Deepak on his call in November, 2015 and again subjected to rape. For the first time, the complaint was made in August, 2016. As per plea of

counsel for the State, recovery of mobile phone containing video clip is yet to be effected.”

Learned counsel for the petitioner submits that the petitioner has joined investigation. The mobile phones have been handed over by the petitioner. Voice samples of the petitioner have also been taken. The petitioner undertakes to join investigation as and when required and not misuse the concession of anticipatory bail, if afforded to him. The petitioner is not involved in any other criminal case. Therefore, it is prayed that this petition be allowed.

Learned counsel for the complainant has opposed this petition.

Learned counsel for the State, on instructions from ASI Baljit Singh, verifies that the petitioner has joined investigation. The mobile phones have been recovered. The third mobile phone has been sent for forensic examination. Voice samples of the petitioner have also been taken. The petitioner, it is verified, is not involved in any other criminal case.

There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts before the 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 is allowed. Consequently, order dated 15.02.2017 is made absolute.

It is made clear that the petitioner shall not directly or indirectly try to contact the complainant/prosecutrix or any of her family members or the witnesses in this case. In case of any infraction on the part of the petitioner in respect to the conditions of bail, needless to say the complainant and the State

are at liberty to move an appropriate application for cancellation of his bail.

February 02 , 2018.
'om'

(**LISA GILL**)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No