

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

**Criminal Misc. No.M-14768 of 2018(O&M)
Date of Decision: April 20, 2018.**

Varinder Singh @ Gopi @ Kala

Petitioner.

Versus

State of Punjab

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Abhey Singh, Advocate
for Mr. Ashok Paul Batra, Advocate
for the petitioner.

Ms. Seena Mand, DAG., Punjab.

LISA GILL, J.

Petitioner seeks the concession of bail pending trial in FIR No.67 dated 15.12.2016, under Sections 363, 366-A, 120-B IPC (Section 376 IPC and Section and 4 of the Protection of Children from Sexual Offences Act, 2012, added subsequently), registered at Police Station Valtaha, District Tarn Taran.

It is submitted that no offence punishable under Sections 363, 366-A, 120-B, 376 IPC and Section and 4 of the Protection of Children from Sexual Offences Act, 2012, is made out against the petitioner. In-fact, the petitioner and the complainant's daughter had friendly relations and wanted to get married with each other. This was not to the liking of the complainant's family. Report regarding missing of the victim since 04.12.2016 was lodged on a statement of the complainant on 15.12.2016. It was alleged that she (the victim) has been enticed by the present petitioner along with others. In her statement under Section 164 Cr.P.C, the alleged victim specifically stated that she solemnized marriage with the petitioner out of her own free will and consent.

Learned counsel for the petitioner further submits that the victim (PW-1) and the complainant (PW-2), have not supported the prosecution while being cross-examined though in their examination-in-chief allegations were levelled against the petitioner. The victim (PW-1) specifically stated that she was never kidnapped or raped by the petitioner. She has admitted her statement under Section 164 Cr.P.C. The complainant (PW-2) in his cross-examination denied that any offence was committed by the petitioner. PW-3, the mother of the victim did not support the prosecution case. It is thus prayed that this petition be allowed.

Copies of the statements of PW-1 to PW-3 are attached with this petition as Annexure P-2 (collectively).

Learned counsel for the State is unable to deny that the victim as well as her parents have not supported the prosecution case, though it is contended that in examination-in- chief, the victim and her father, the complainant had raised allegations against the petitioner.

Be that as it may, appreciation of evidence is in the domain of the learned trial Court and no opinion is being expressed thereon.

Learned counsel for the State, on instructions from ASI Baldev Singh, verifies that the petitioner, who is 23 years old, 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. Trial in this case is not likely to conclude in the near future. No useful purpose would be served by keeping the petitioner incarcerated any longer in the facts and circumstances of this case.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition filed by Varinder Singh @ Gopi @ Kala, 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.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

20.04.2018
s.khan

[LISA GILL]
Judge

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