

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

Criminal Misc. No.M-20042 of 2018(O&M)

Date of Decision: May 23, 2018.

Balwinder Kaur @ Bindro

Petitioner

Versus

State of Punjab

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashish Bakshi, Advocate
for the petitioner.

Mr. D.S.Sukarchakia, DAG, Punjab.

LISA GILL, J.

Petitioner seeks the concession of bail pending trial in FIR No.48 dated 06.04.2016, under Sections 363, 366-A, 376, 120-B IPC and Sections 4, 8 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Daba, Ludhiana.

It is submitted that the present petitioner has been falsely implicated in this case due to her relationship with the co-accused-Sandeep Singh, who is alleged to have allured the victim on the pretext of marriage. Petitioner is the mother of Sandeep Singh. Learned counsel for the petitioner submits that the victim is alleged to have gone missing from her home on 05.04.2016. FIR was lodged on 06.04.2016. The victim was recovered on 25.06.2016. No allegations have been raised against the present petitioner in the FIR or even in the statement of the victim recorded under Section 164 Cr.P.C on 25.06.2016. It is for the first time before the learned trial Court, the victim stated on 06.10.2017 that the present petitioner also used to try and convince her to get married to her son and

was aware of physical violation of the victim by the petitioner's son. It is submitted that the petitioner has been in custody since June 2016. The victim, complainant, Investigating Officer, doctor and all material witnesses have since testified before the learned trial Court. It is further submitted that the victim in her cross-examination before the learned trial Court has admitted that she never raised any hue and cry at any point of time between April 2016 till June 106, when she remained with the co-accused-Sandeep Singh. It is thus prayed that this petition be allowed.

Photocopy of the statement of the victim (PW-4), filed in Court today, is taken on record subject to just exceptions.

Learned counsel for the State while opposing this petition submits that the victim in this case was minor, therefore the question of consent or otherwise is irrelevant. It is however not denied that no allegations have been raised by the victim against the present petitioner in her statement under Section 164 Cr.P.C., though, later mentioned in her examination-in-chief before the learned trial Court.

Needless to say appreciation of evidence is in the domain of the learned trial Court and shall be considered by it. No opinion is being expressed thereon.

Learned counsel for the State, on instructions from HC Jarnail Singh, verifies that the petitioner is not reported to be 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 Balwinder Kaur @ Bindro, is allowed. Petitioner be released on bail pending trial subject to her furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court.

Petitioner shall not attempt to contact the victim or any of her family members/witnesses in any manner directly or indirectly. Any such infraction shall entail cancellation of bail afforded to her.

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.

23.05.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.