

Criminal Misc. No. M- 23213 of 2017 (O&M)

Date of decision : January 30, 2018

Sarvan

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 44 dated 03.02.2017 under Sections 363, 366A, 506 IPC and Section 4 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Kunjpura, District Karnal.

It is submitted that the petitioner has been falsely implicated in this case. The victim is stated to have gone missing on the intervening night of 01/02.02.2017 whereas the FIR in question was registered on 03.02.2017. In her statement under Section 164 Cr.P.C. recorded on 07.02.2017 (Annexure P-2), the victim stated that she was sleeping in her room at her residence on 05.02.2017 when the present petitioner entered their house. He put his hand on her mouth and out of fear she became unconscious. When she regained consciousness she found herself in the fields with the petitioner and allegation of rape is raised against the petitioner. The victim further stated that the

petitioner had committed wrong act with her two years prior thereto as well but she had not disclosed the same to her parents. As per the statement under Section 164 Cr.P.C., the victim came back to her house from the fields and disclosed the incident to her parents, who were searching for her. It is stated that she returned home on that night itself. The victim was produced by her father i.e. the complainant.

Learned counsel for the petitioner submits that the victim has since deposed before the learned trial Court on 16.01.2018. Before the learned trial Court the victim stated that she was enticed by the petitioner on pretext of marriage on 01.02.2017. She was kept confined by him in a room constructed in the fields but she managed to escape on 07.02.2017 and returned home. Allegation of rape against the petitioner is raised. It is argued that there are material contradictions in the statement of the alleged victim under Section 164 Cr.P.C and before the learned trial Court which reveal the falsity of the prosecution version. The petitioner has been in custody since February, 2017 and is not involved in any other criminal case. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State, on instructions, from ASI Sumer Singh, verifies that the victim as well as her mother have testified before the learned trial Court. The petitioner is not reported to be involved in any other criminal case. Needless to say appreciation of evidence and the alleged contradictions, as pointed out by learned counsel for the petitioner, are in the domain of learned trial Court and

no expression thereon is expressed.

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. Trial in this case is not likely to conclude in the near future.

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.

January 30, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No