

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

CRM-M No.28720 of 2017

Date of Decision: January 08, 2018

Gautam

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

Ms. Monika Jalota, DAG, Punjab
for the respondent-State.

LISA GILL J. (ORAL)

The petitioner seeks the concession of bail pending trial in FIR No.97 dated 05.06.2016, under Sections 363, 366-A, 376 IPC and Section 4 of POSCO Act, registered at Police Station Division No.4, District Ludhiana.

It is submitted that the petitioner, who is about 19 years, has been falsely implicated in this case. In fact the petitioner and the alleged victim in this case had friendly relations. The victim, it is submitted, specifically stated that she accompanied the petitioner out of her own accord and lived with him for one and a half (1½) months.

As per the FIR recorded on the statement of the father of the victim, his daughter went missing from her home on 02.06.2016. Apprehension was raised that the present petitioner had enticed the complainant's daughter with the intention of solemnizing marriage.

Learned counsel submits that there are discrepant versions as to when the victim in this case was recovered which casts a palpable doubt on the prosecution case. As per the victim's version, she was dropped at railway station, Basti, UP on 05.06.2016 by the petitioner. She came back to Ludhiana along with her Uncle (Chacha). The complainant-PW/2 stated that his daughter/victim came back home out of her own accord on 24.07.2016. Whereas PW/1-Head Constable Rakesh Kumar while giving a third version, stated that the accused along with the prosecutrix were apprehended on 04.08.2016 at Sangam Palace Chowk. Statement of the victim under Section 164 Cr.P.C. was subsequently recorded on 23.08.2016 and her medical examination was also conducted on the said date.

It is vehemently argued that no offence punishable under Sections 363, 366-A, 376 IPC and Section 4 of POSCO Act is made out against the present petitioner. Moreover the victim and her parents have since deposed before the learned trial Court. The petitioner is not involved in any other criminal case and has been in custody since 04.08.2016. It is thus prayed that this petition be allowed.

Learned counsel for the respondent-State has opposed this petition while submitting that the question of consent or otherwise is irrelevant as the victim in this case was minor i.e. about 16½ years of age. Moreover, she has supported the prosecution version. It is however not denied that the victim and her parents have since testified before the learned trial Court. On instructions from HC Gurpreet Singh, it is verified that the petitioner is not involved in any other criminal case and he is in

custody since 04.08.2016. Four (04) out of sixteen (16) prosecution witnesses have been examined till date. 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. 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-Gautam, 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.

None of the observations made hereinabove shall be construed to be a reflection on the merits of the case and shall have no bearing on trial.

The petitioner shall not try to contact the victim, her family members or any of the witnesses, directly or indirectly in any manner. Any such infraction in this regard may entail cancellation of his bail.

(LISA GILL)
JUDGE

January 08, 2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No