

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

Crl. Misc. M-31377 of 2017 (O&M)
Date of Decision: July 30, 2018

Kuldeep

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ashok Bhardwaj, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Rajesh Bansal, Advocate
for the complainant.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 438 of Cr.P.C., for grant of anticipatory bail to the petitioner in the event of arrest in FIR No. 275 dated 17.07.2017 registered under Sections 323, 452, 376, 511, 506 of the Indian Penal Code, registered at Police Station Kundli, District Sonapat.

Learned counsel for the petitioner herein would contend that the allegations as set out in the FIR are not sustainable. In fact, the allegations of rape and scuffle between Kuldeep petitioner and Omkar husband of the complainant did not result in any broken bones since there is no MLR on the record. He submits that the petitioner is ready to join the investigation. No custodial interrogation of the petitioner is required as no recoveries are to be effected from him.

Learned counsel for the petitioner further contends that on the direction of this Court, petitioner has joined the investigation. It is also contended that nothing is to be recovered from him.

Reply has been filed on behalf of the complainant herein submitting that the affidavit, which the petitioner is relying upon have been obtained under pressure while also submitting that the husband of the complainant did suffer injuries as would be reflected in the MLR.

Learned counsel for the respondent-State submits that there are two sets of affidavits which are available on the record while admitting to the fact that the husband of the complainant did suffer injuries. It is also submitted that the matter has been investigated and the petitioner is not required for the custodial interrogation.

I have heard learned counsel for both the parties and also perused the vernacular of the affidavit, and found both sets of affidavit do seem to be genuine, however the genuineness of the affidavit is a matter of evidence.

In view of the facts that the petitioner is not required for custodial interrogation and has joined the investigation, without commenting on the merits of the case, the petition is allowed and order dated 25.08.2017 granting interim bail to the petitioner is made absolute subject to the conditions laid down in Section 438 Sub Section 2 Clauses (i) (ii) and (iii) of the Code of Criminal Procedure.

July 30, 2018

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No