

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

1. **Criminal Misc. No. M- 32230 of 2017 (O&M)**
Date of decision : March 26, 2018

Vinod MasihPetitioner

Versus

State of PunjabRespondent

2. **Criminal Misc. No. M- 32094 of 2017 (O&M)**

DanielPetitioner

Versus

State of PunjabRespondent

3. **Criminal Misc. No. M- 33224 of 2017 (O&M)**

Ajay @ Ajay KumarPetitioner

Versus

State of PunjabRespondent

4. **Criminal Misc. No. M- 32131 of 2017 (O&M)**

Daniel @ SunnyPetitioner

Versus

State of PunjabRespondent

5. **Criminal Misc. No. M- 34095 of 2017 (O&M)**

Tarsem Masih @ MankiPetitioner

Versus

State of PunjabRespondent

6. **Criminal Misc. No. M- 29018 of 2017 (O&M)**

Joginder PalPetitioner

Versus

State of PunjabRespondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Inderjit Sharma, Advocate
for the petitioners. (in CRM-M-32230, 34095, 32131, 32094 of
2017)

Mr. A.S. Bhatti, Advocate
for the petitioner (in CRM-M-29018-2017)

Mr. S.S. Goraya, Advocate
for the petitioner (in CRM-M-33224-2017)

Ms. Seena Mand, DAG, Punjab.

LISA GILL, J.

This order shall decide CRM Nos. M-29018, 33224, 32230, 32131, 32094 and 34095 of 2017.

Vinod Masih – petitioner in CRM-M-32230-2017 prays for bail pending trial in FIR No. 42 dated 07.07.2017 under Sections 376D, 363, 366, 344, 506 IPC registered at Police Station Purana Shalla, Tehsil and District Gurdaspur.

Petitioners in CRM Nos. M-29018, 33224, 32131, 32094 and 34095 of 2017 seek the concession of anticipatory bail in the abovesaid FIR.

Learned counsel for the petitioners submit that all the petitioners have been falsely implicated in this case. The victim allegedly went missing on 24.05.2017. Surprisingly, no complaint/FIR in this regard was lodged by any of her family members including her husband. She purportedly escaped from illegal confinement on 02.07.2017 and still the present FIR was registered on 07.07.2017 after another five days.

Petitioner – Joginder Pal is stated to be a Sarpanch of village of Jhandechak and the owner of the hotel (JP Hotel) in question where the victim was allegedly confined. It is submitted that he has been falsely implicated due to political vendetta.

Petitioner – Daniel @ Sunny son of Nathaniel Masih is stated to be serving as a Waiter in JP Hotel. It is submitted that he is also a supporter of the petitioner – Joginder Pal Singh.

Daniel son of Prem Singh @ Bittu and Tarsem Masih @ Manki are relatives of the husband of the complainant.

Petitioner – Ajay is a co-villager. Petitioner – Vinod Masih is also a worker at JP hotel and brother of Daniel @ Sunny.

It is further contended that at one stage, it was projected that the victim in this case was pregnant. However, on investigation it has been found that the complainant was not expecting. All the petitioners, it is informed, duly submitted for DNA testing as well.

Learned counsel for the petitioners submit that the victim/prosecutrix in this case has not supported the prosecution version. Reference is made to her statement recorded before the learned trial Court on 09.02.2018. Copy of the said statement has been attached as Annexure P-4 with CRM-M-32230-2017. It is, thus, prayed that these petitions be allowed.

It is relevant to note, at this stage, that final report under Section 173 Cr.P.C. was presented against Vinod Masih and trial is proceeding against him.

The prosecutrix in her statement recorded on 09.02.2018 has not supported the prosecution version at all. She specifically stated that her husband was suspicious and the present FIR was registered under duress. She stated that she was not subjected to rape by anyone nor was forced into prostitution by anyone and she did not know the accused persons. The prosecutrix denied having made any statement before the police authorities against anyone. The prosecutrix was declared hostile.

Learned counsel for the State, on instructions from SI Tara Singh, verifies that the petitioners – Daniel, Tarsem Masih @ Manki, Daniel @ Sunny, Ajay @ Ajay Kumar and Joginder Pal have joined investigation.

It is verified that none of the petitioners are involved in any other criminal case. The effect or otherwise of the prosecutrix not supporting the

prosecution version needless to say shall be considered by the learned trial Court at an appropriate stage. No opinion is being expressed on the merits of the case.

There are no allegations on behalf of the State that petitioners are likely to abscond or that they are likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

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 all the six petitions. Consequently, order dated 23.10.2017 in CRM Nos. M- 29018, 33224, 32131, 32094 and 34095 of 2017 is made absolute.

No useful purpose shall be served by keeping the petitioner – Vinod Masih incarcerated any longer. CRM-M-32230-2017 is allowed. Consequently, petitioner – Vinod Masih be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned trial Court.

March 26, 2018
rts

(Lisa Gill)
Judge

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