

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

**Criminal Misc. No.M-32950 of 2017(O&M)
Date of Decision: February 02, 2018.**

Pinki

Petitioner.

Versus

State of Haryana

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sanjay Vashisth, Advocate
for the petitioner.

Mr.Anmol Malik, AAG, Haryana.

Mr. S.S.Duhan, Advocate
for the complainant.

LISA GILL, J.

This is the petitioner's third petition seeking the concession of bail pending trial in FIR No. 000 dated 26.08.2015, under Sections 366, 506, 376 (d), 328, 342 IPC and Section 67 of Information Technology Act 2000, Police Station Jind City, District Jind (subsequently transferred and converted as FIR No. 1184 dated 27.08.2015 Police Station City Panipat) and challaned under Sections 376 (d), 328, 366, 342, 506, 384, 120-B, 376 (2) (n) IPC) (charged under Sections 120-B, 366, 376-D and 384 IPC only).

The first petition filed by the petitioner was disposed of on 19.01.2016 (Annexure P-5), wherein she was afforded the concession of interim bail for six months as she was expecting her second child. The petitioner, it is submitted remained on interim bail from January, 2016 till August 2016.

Thereafter, the petitioner is in custody. The second petition filed by the petitioner was dismissed as withdrawn on 19.10.2016 (Annexure P-8). The petitioner, it is submitted has been falsely implicated in this case. Even, as per the allegations raised against her, she is accused of trying to blackmail the complainant in connivance with the other co-accused. It is submitted that there is no such allegations against the petitioner to have facilitated the commission of any offence in question. Moreover, the prosecutrix in this case has since testified before the learned trial Court. Even, in her statement before the learned trial Court, there is no specific allegations against the petitioner except that she tried to blackmail the complainant. The prosecutrix, it is submitted in-fact could not even tell any detail as to when and where the petitioner blackmailed her. It is argued that there is nothing on record to suggest connivance of the petitioner with the other co-accused.

Learned counsel for the petitioner submits that the petitioner aged 24 years has two minor child. The younger child is presently in prison with her. Moreover, the petitioner never misused the concession of interim bail granted to her at the time of delivery of the child. It is thus prayed that this petition be allowed.

Learned counsel for the complainant has opposed this petition while submitting that the prosecutrix and her husband are still being threatened and intimidated. FIR No. 818 dated 25.04.2016, under Sections 376-D, 377, 506 IPC was registered against the complainant's brother and husband at the instance of the accused persons in the State of Uttar Pradesh. The said FIR was found to be false and thereafter cancelled. However, learned counsel for the complainant is unable to point out any connection/communication between the present petitioner

and the complainant of FIR No. 818 registered at Uttar Pradesh. Admittedly, the present petitioner delivered her second child on 24.04.2016 at Aman Hospital, Bawani Khera (Bhiwani). FIR no. 0818 was lodged on 25.04.2016 in Muzaffar Nagar (Uttar Pradesh). Another argument raised by learned counsel for the complainant is that the co-accused Neeraj is absconding after being granted bail under Section 167(2) Cr.P.C. However, as noticed earlier, the petitioner was granted interim bail for a period of six months by this Court and she duly surrendered thereafter in August 2016. The petitioner has been in custody since then. The prosecutrix in this case has since testified before the learned trial Court.

Learned counsel for the State, at this stage, is unable to point out any other evidence on record to reflect the connivance of the present petitioner with the other co-accused. 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 she is likely to dissuade the witnesses from deposing true facts in 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, a woman having two minor children incarcerated any longer in the facts and circumstances of this case.

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-Pinki, is allowed. The 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.

02.02.2018
s.khan

[LISA GILL]
Judge

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