

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

Criminal Misc. No.M-3471 of 2018(O&M)

Date of Decision: February 07, 2018.

Ashish

Petitioner.

Versus

U.T. Chandigarh

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vinod Ghai, Sr. Advocate
with Mr. S.S.Sandhu, Advocate
for the petitioner.

Mr.Gautam Dutt, APP., UT Chandigarh.

Mr. Pankaj Bhardwaj, Advocate
for the complainant.

LISA GILL, J.

Petitioner seeks the concession of bail pending trial in FIR No.156 dated 05.08.2017, under Sections 354-D (Sections 341, 365, 511 read with Section 34 IPC and Section 185 of the Motor Vehicle Act, 1988, added later on), registered at Police Station Sector 26, Chandigarh.

It is submitted that similarly situated co-accused has been afforded the concession of bail pending trial by this Court on 11.01.2018 in CRM-44615 of 2017 (Annexure P-6). It is further submitted that the present is a matter triable by the Magistrate. Moreover, the victim/complainant as well as her father, who are the material witnesses in this case have since testified before the learned trial Court. FIR in the present case was initially registered under Section 354-D IPC. It is thereafter on 09.08.2017 that Sections 365 read with Section 511 IPC and Section 185 of the Motor Vehicle Act, 1988 were added. The petitioner, earlier

released on bail had himself surrendered on 09.08.2017 and he has been in custody since then. The petitioner undertakes to face the proceedings and not misuse the concession of bail, if afforded to him. It is thus prayed that this petition be allowed.

This petition is opposed on the ground that the role of the present petitioner is distinguishable on the ground that the present petitioner came out of the car, banged on the window of the victim's car tried to open the rear door of the car and block her way. Moreover, FIR No. 0551 dated 06.06.2017, under Section 306 IPC, Police Station City Hisar, District Hisar, stands registered against the petitioner. Therefore, the petitioner's case is distinguishable from the co-accused and he cannot claim parity with him.

Learned counsel for the petitioner argues that the role of the present petitioner cannot be distinguished from the co-accused inasmuch as the co-accused who was driving the offending vehicle is averred to have followed the victim's car, severed towards it and tried to block the car. In respect to the pendency of the FIR under Section 306 IPC, it is submitted that the said matter is under investigation and the petitioner's role therein is being looked into and the petitioner shall face the proceedings therein. The said proceedings have no bearing on the present case and cannot be held against the petitioner. Reliance is placed on the judgment of Hon'ble Supreme Court in **Maulana Mohammed Amir Rashadi Vs. State of Uttar Pradesh and another (2012) 2 Supreme Court Cases 382**, to submit that in a given situation, antecedents of an accused cannot be the sole ground to deny bail.

Heard learned counsel for the parties.

Learned counsel for Union Territory, Chandigarh as well as the

complainant affirm and verify that the complainant in this case has since testified before the learned trial court. The petitioner, earlier released on bail had surrendered on 09.08.2017 and is in custody since then. The matter is admittedly triable by a Magistrate. The complainant/victim in this case has since testified before the learned trial court. Trial in this case is not likely to conclude in the near future. There are no allegations on behalf of the State that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts before the Court, if released on bail. No useful purpose would be served by keeping the petitioner incarcerated any longer in the present factual matrix.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition filed by Ashish 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.

It is made clear that the petitioner shall not directly or indirectly try to contact the complainant, any of her family members or witnesses in this case. Any such infraction on the part of the petitioner may entail cancellation of his bail. The petitioner shall not leave the country without prior permission of the learned trial court.

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

07.02.2018
s.khan

[LISA GILL]
Judge

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