

Criminal Misc. No. M- 36612 of 2017 (O&M)

Date of decision : February 16, 2018

Rakesh @ Bhola

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Jai Bhagwan, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 200 dated 24.03.2017 under Sections 120B, 452, 376D IPC registered at Police Station Samalkha, District Panipat.

It is submitted that the petitioner has been falsely implicated in this case. The complainant's mother-in-law is a cousin sister of the present petitioner. The petitioner is in the relation of a father-in-law of the complainant. He is married having two children. There used to remain strained relations between the complainant and the mother-in-law in which the petitioner tried to intervene and enable the parties to resolve the issue. It is due to this reason that the present petitioner has been falsely implicated. It is further submitted that the co-accused Amit, who is mentioned as the 'unknown person' in the FIR, has been found innocent during investigation. The complainant has gone to the extent of raising allegations against her own mother-in-law. It is vehemently argued that it is opposed to all probabilities and sensibilities that a mother-in-law would indulge in such an act as alleged by the complainant. The complainant was admittedly living in her matrimonial home alongwith her two daughters. At the time of the alleged incident, her younger daughter was admittedly sleeping in the room.

There are a number of houses adjacent to the complainant's house. Thus, the sequence of events narrated are clearly doubtful. Moreover, there is an unexplained delay in the lodging of the FIR. Incident in question is stated to have taken place on 19.03.2017 whereas FIR was registered on 24.03.2017. The complainant allegedly narrated the incident to her husband on the same night when he returned home, but no action was taken. The prosecutrix, in this case, it is submitted, has already testified before the learned trial Court. Her husband is not coming forward to depose before the learned trial Court. The present petition was adjourned on a number occasions to ensure that the complainant's husband would be examined but he is deliberately not coming forward to depose before the learned trial Court. It is further contended that the petitioner is living separately at New Delhi and has been unnecessarily roped in due to his efforts to soothe strained relations. The petitioner has been in custody since March, 2017. He is not involved in any other criminal case. He undertakes to face the proceedings. The co-accused Anita - mother-in-law of the complainant has been afforded the concession of bail pending trial vide order dated 22.05.2017 passed in CRM-M-14917-2017 (Annexure P-2). It is, thus, prayed that this petition be allowed.

Certified copy of the statement of the prosecutrix (PW1) produced in Court today is taken on record subject to just exceptions.

I have heard learned counsel for the parties.

Learned counsel for the State does not deny the relationship between the petitioner and the complainant as well as the factum of his residence at New Delhi. It is, however, submitted that serious allegations have been raised against the petitioner. The prosecutrix in her statement before the learned trial Court has supported the prosecution version. It is

verified that the husband of the prosecutrix has not come forward for deposing before the learned trial Court. On the last date of hearing before the learned trial Court, the said witness sought exemption from appearance.

It is confirmed by learned counsel for the State, on instructions from ASI Mukesh that the petitioner is not involved in any other criminal case. Trial in this case is not likely to conclude in the near future. There are no allegations on behalf of the State that petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

No useful purpose shall be served by keeping the petitioner incarcerated any longer. 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 this petition.

Consequently, 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 reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

It is, however, clarified that the petitioner shall not try to contact the complainant/witnesses in any manner - directly or indirectly. Any such infraction on the part of the petitioner shall entail cancellation of his bail.

(Lisa Gill)
Judge

February 16, 2018
rts

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