

Criminal Misc. No. M- 38406 of 2017 (O&M)

Date of decision : January 30, 2018

Shivam

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. R.S. Rai, Senior Advocate with
Mr. Karan Pathak, Advocate and
Mr. G.S. Bedi, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 347 dated 17.03.2017 under Sections 376, 354A, 354D, 341, 509 IPC registered at Police Station Gurgaon Sadar, District Gurugram.

It is submitted that the petitioner has been falsely implicated in this case. Relationship, if any, between the petitioner and the complainant was completely consensual. Even as per the averments in the FIR, the complainant was acquainted with the petitioner since the year 2015. The incident complained of is of April/May, 2016 whereas the present FIR has been registered on 17.03.2017. Learned counsel for the petitioner refers to the photographs, Annexure P-3. The learned Additional Sessions Judge, Gurgaon has dismissed the petitioner's application for bail only on the ground that the prosecutrix is yet to be examined. The prosecutrix, it is submitted, has testified before the learned trial Court on 19.01.2018.

Learned counsel for the petitioner while referring to the testimony of the prosecutrix submits that consensual nature of the relationship is apparent on a bare reading thereof. The prosecutrix has admitted that she has never till date seen any objectionable video allegedly prepared by the petitioner on account of which she was allegedly threatened and blackmailed. In these circumstances, it is argued that no offence punishable under Sections 376, 354A, 354D, 341, 509 IPC is made out against the petitioner. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State is unable to deny that the complainant as well as her mother, in this case, have testified before the learned trial Court though it is stated that the prosecutrix has levelled specific allegations against the petitioner. It is not disputed that the prosecutrix was acquainted with the petitioner since 2015. Learned counsel for the State verifies that the petitioner is not involved in any other criminal case.

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

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.

January 30, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No