

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

**Criminal Misc. No.M-38408 of 2017(O&M)
Date of Decision: May 28, 2018.**

Rajan

Petitioner

Versus

State of Punjab

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Mandeep Kaushik, Advocate
for the petitioner.

Mr. D.S.Sukarchakia, DAG, Punjab.

LISA GILL, J.

Petitioner seeks the concession of bail pending trial in FIR No.215 dated 07.06.2017, under Sections 376, 120-B IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Basti Jodhewal, District Ludhiana.

It is submitted that the petitioner has been falsely implicated in this case. As per allegations in the FIR, the petitioner used to follow the complainant 5-6 months prior to the lodging of the FIR when she would go to school. Friendship between the complainant and the petitioner developed. It is alleged that after administering some intoxicant in a cold-drink, the complainant was subjected to rape by the petitioner. Obscene photographs, when the complainant was in an unconscious state, were clicked. It is further averred that petitioner's parents pressurized the complainant to marry the petitioner. The complainant then revealed the incident to her parents and ultimately the complainant alongwith her

mother and grandmother came and lodged the FIR in question on 07.06.2017.

Learned counsel for the petitioner vehemently argues that the present is a case of love affair between the petitioner and the complainant. Reference is made to the photographs attached as Annexure P-2. It is further contended that there is an unexplained delay in lodging of the FIR. PW-3, Dr. Ruchi Aggarwal, who medically examined the victim on 03.06.2017 has recorded that the victim came with a history of sexual abuse in February 2017. It is not possible that the victim would not have revealed such an incident even to her family members till June 2016. The complainant, it is contended was even not coming forward to depose before the learned trial Court. It is only after passing of specific orders by this Court in the present petition that the statement of the prosecutrix alongwith statement of her grandmother and the doctor, have been recorded. It is further submitted that no external or internal injury was detected on the person of the prosecutrix which negates the prosecution case. The victim, it is argued has admitted her photographs mark D-5 to D-13 which reflects the friendly and affectionate relations between her and the petitioner. It is urged that the petitioner is himself a student pursuing the course of B-Tech and is not involved in any other criminal case. It is thus prayed that this petition be allowed.

Certified copy of the statements of prosecutrix/complainant (PW-1), grandmother (PW-2), Dr. Ruchi Aggarwal (PW-3) and Dr. Milan Verma (PW-4), filed in Court today, are taken on record subject to just exceptions.

Learned counsel for the State while opposing this petition submits that the victim in this case was minor, therefore the question of consent or otherwise is totally irrelevant. It is further submitted that the prosecutrix has duly supported the prosecution case. However, it cannot be denied that the prosecutrix,

her grandmother and the doctor have since testified. The prosecutrix in her statement before the learned trial Court has admitted photographs Mark D-5 to D-13 to be hers. Be that as it may, appreciation of evidence is in the domain of the learned trial Court. No opinion is being expressed thereon.

Learned counsel for the State, on instructions from HC Raj Kumar, Police Station Basti Jodewal, verifies that the petitioner is not involved in any other criminal case. 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. Trial in this case is not likely to conclude in the near future. No useful purpose would be served by keeping the petitioner incarcerated any longer in the facts and circumstances of this case.

Keeping in view the peculiar facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition filed by Rajan, is allowed. Petitioner be released on bail pending trial subject to his 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 him.

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.

28.05.2018

s.khan

**[LISA GILL]
Judge**

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