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

**CRM-M No.39600 of 2017 (O&M)
Date of Decision: January 09, 2018**

Anil

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Kunal Dawar, Advocate
for the petitioner.

Mr. Anmol Malik, AAG, Haryana
for the respondent-State.

LISA GILL J. (ORAL)

CRM No.158 of 2018

Certified copy of statement of the prosecutrix, Annexure P-7
is taken on record subject to just exceptions. Exemption in filed true typed
copy is allowed.

Application is disposed of.

CRM-M No.39600 of 2017

The petitioner seeks the concession of bail pending trial in
FIR No.16 dated 05.02.2017 under Sections 363, 366, 342, 351, 376-D
IPC (Sections 363, 366, 351 IPC deleted later on and Section 328 IPC
added) registered at Women Police Station, District Palwal, Haryana.

It is submitted that the petitioner has been falsely implicated
in this case. In fact the petitioner and the complainant had friendly
relations. It is admitted by the complainant that she knew the petitioner
since they were studying in 10+2. The complainant had voluntarily
accompanied the petitioner on 02.02.2017. Relationship, if any, between

the petitioner and the complainant was purely consensual. Discrepant versions have been given by the complainant on various occasions. Reference is made to the initial complaint lodged on 03.02.2017 (Annexure P-2). Thereafter the complainant has named another person i.e. co-accused Mahavir, who has been granted the concession of anticipatory bail by this Court on 11.09.2017 (Annexure P-5). Moreover, the complainant has since testified before the learned trial Court on 18.12.2017 and her statement (Annexure P-7) is attached with this petition.

Learned counsel for the petitioner vehemently argues that the complainant has admitted in her cross-examination that she was having a love affair with the petitioner and had friendly relations with him since one year. The medical evidence on record, it is submitted does not suggest commission of rape on the complainant. It is urged that the complainant accompanied the petitioner voluntarily on 02.02.2017. It is highly improbable that no action would have been taken by the complainant's family if she had not come back home from her college on 02.02.2017 without any intimation to them. There is nothing on record to indicate that the complainant was administered any intoxicant or poisonous substance. The delay in lodging the FIR, impinges on the veracity of the prosecution version. The petitioner aged about 22 years has been in custody since 20.02.2017 and is not involved in any other criminal case. It is thus prayed that this petition be allowed.

Learned counsel for the State is unable to deny that the complainant has since testified before the learned trial Court. The petitioner is 22 years old and is not reported to be involved in any other

criminal case. Needless to say appreciation of evidence is in the domain of the learned trial Court and the same shall be considered in accordance with law by the learned trial Court. Two out of total 25 prosecution witnesses have been examined. Trial in this case is not likely to conclude in the near future. There are no allegations that the petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts before the learned trial Court, if released on bail. 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 facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, this petition filed by petitioner-Anil, 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/Duty Magistrate.

None of the observations made hereinabove shall be construed to be a reflection on the merits of the case and shall have no bearing on trial.

It is made clear that the petitioner shall not attempt to contact the complainant/victim or any of the witnesses directly or indirectly. Any infraction in this regard may entail cancellation of his bail.

(LISA GILL)
JUDGE

January 09, 2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No