

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

Criminal Misc. No.M- 39897 of 2017(O&M)

Date of Decision: February 19 , 2018.

Kamlesh

..... PETITIONER (s)

Versus

State of Punjab

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Charanpreet Singh, Advocate
for the petitioner.

Ms. Seena Mand, DAG, Punjab.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.56 dated 10.02.2017 under Sections 363/366/366A/376 IPC, registered at Police Station Zirakpur, District SAS Nagar, Mohali.

It is submitted that the petitioner was found innocent during investigation. He has been summoned to face trial as an additional accused vide order dated 13.09.2017 passed by the learned trial court on an application moved under Section 319 Cr.P.C. by the prosecution. It is argued that allegations attracting the rigours of Section 376 IPC were not raised by the complainant

against the petitioner in the initial version recorded on 22.02.2017 (Annexure P1). The petitioner has been falsely implicated in this case only because of his relationship with the co-accused, Sushil Kumar whom the prosecutrix had accompanied and stayed with for about 12 days. The petitioner is the brother-in-law (Jija) of Sushil Kumar. Learned counsel for the petitioner submits that it is not possible that rape could have been committed by the petitioner in the presence of his wife. Moreover, the complainant and the prosecutrix have since testified before the learned trial court. It is further submitted that the petitioner has appeared before the learned trial court pursuant to interim orders dated 26.10.2017 and 22.11.2017 passed by this Court. The petitioner undertakes to face the proceedings and appear on each and every date fixed before the learned trial court. Therefore, it is prayed that this petition be allowed.

Learned counsel for the State, on instructions from ASI Baljit Singh, verifies that the petitioner has appeared before the learned trial court. The petitioner is confirmed to be the brother-in-law (Jija) of the accused Sushil Kumar. The petitioner, it is verified, 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.

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 is allowed. Consequently, interim bail afforded to the petitioner be made absolute subject to his furnishing fresh bail bonds and surety to the satisfaction 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.

February 19 , 2018.
'om'

(LISA GILL)
JUDGE

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