

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

Criminal Misc. No. M- 39966 of 2017 (O&M)

Date of decision : March 19, 2018

Kulwinder Singh

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Krishan Kumar, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

LISA GILL, J.

The petitioner prays for bail pending trial in FIR No. 86 dated 09.06.2017 under Section 506 IPC and Section 8/4 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Barara, District Ambala.

It is submitted that the petitioner has been falsely implicated in this case which was lodged after an unexplained delay of six days. As per the allegations in the FIR, the prosecutrix stated that she was 16 years old. On 02.06.2017 at about 3.00 p.m., when she came home for having her food the present petitioner forcibly entered her house when no one was present. He gagged her, pressed her neck, started removing her clothes. When the prosecutrix raised alarm, her mother, who was present for feeding the cattle, knocked at the door. When the door was not opened, the persons doing labour work in the neighbourhood scaled over the wall, came inside the house and opened the door. Mother of the prosecutrix came inside and

rescued her from the petitioner's clutches. Learned counsel for the petitioner contends that in her statement under Section 164 Cr.P.C., the prosecutrix did not level any allegation of rape against the petitioner. Thereafter, on 14.06.2017, she disclosed before the CWC Amabla that rape had been committed upon her. Her medical examination was conducted on 14.06.2017. No external injuries were found present on her person. As per the Chemical Examiner's report dated 27.12.2017, no semen was detected. It is vehemently urged that the prosecution case is falsified by the evidence on record. PW1 in her statement before the learned trial Court alleged that she had received injuries in the incident and she too had scratched the petitioner on his face and given a teeth bite on his shoulder. Learned counsel contends that the medico legal reports of the petitioner as well as the prosecutrix negate the said averments.

It is further submitted that the prosecutrix has since been examined before the learned trial Court. Her statement is attached alongwith this petition as Annexure P-3. The alleged eye witness, who has deposed as PW2, specifically stated that the present petitioner never entered the house of the prosecutrix or committed any illegal act with her. Said witness has been declared hostile. Statement of PW2 furnished in Court today is taken on record subject to just exceptions

Learned counsel for the petitioner vehemently argues that there were financial transactions between the petitioner and the father of the prosecutrix due to which the petitioner, who was recently married, has been falsely involved in this case. It is further submitted that the petitioner undertakes to face proceedings and not misuse the concession of bail, if afforded to him. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State has opposed this petition. It is, however, not denied that the prosecutrix, in this case, has since testified before the learned trial Court. The medico legal reports of the petitioner as well as the prosecutrix, as mentioned above, are also not in dispute. Learned counsel for the State, on instructions from SI Shanti, informs that seventeen (17) prosecution witnesses are yet to be examined. The petitioner is not involved in any other criminal case. Needless to say the evidence on record shall be scrutinised by the learned trial Court at the appropriate stage and no opinion is being expressed thereon. 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, however, clarified that the petitioner shall not try to contact the victim, witnesses 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.

March 19, 2018

(Lisa Gill)
Judge

rts

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