

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

Crl. Misc. No. M-42205 of 2017

Date of Decision : January 30, 2018

Naveen KumarPetitioner

Versus

State of Punjab Respondent

CORAM : HON'BLE MRS. JUSTICE LISA GILL

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Present: Mr. Sukhdev S. Kanwal, Advocate
for the petitioner.

Ms. Seena Mand, DAG, Punjab.

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LISA GILL, J. (Oral)

Petitioner seeks the concession of bail pending trial in FIR No. 10 dated 05.06.2017 under Sections 376, 511 IPC registered at Police Station Dhar Kalan, District Pathankot.

It is submitted that the petitioner has been falsely implicated in this case due to political rivalry. There is a delay in lodging of the FIR. The incident mentioned is of 04.06.2017 whereas the FIR in question was registered on 05.06.2017. The alleged victim who belongs to Assam did not come forward at the first instance to lodge any complaint. Moreover, there is nothing on record to indicate where the complainant (who is otherwise not related to the victim in any manner) had lodged the said victim from 04.06.2017 to 05.06.2017. The victim in this case it is submitted is not a mentally retarded person. Opinion in this respect was sought by the Investigating Agency from the Institute of Mental Health and Hospital,

Amritsar. The statement of the victim under Section 164 Cr.P.C. was accordingly recorded on 15.11.2017 after obtaining the opinion of the Director of the aforesaid Institute regarding fitness of the victim. It is stated by the victim that a boy forcibly took her in a car but did not do any wrong act with her as she was rescued by the police.

Learned counsel for the petitioner submits that the final report in this case has already been presented. The petitioner is not involved in any other criminal case. He has been in custody since 05.06.2017. He undertakes to face the proceedings and not abuse the concession of bail pending trial if afforded to him. It is, thus, prayed that this petition be allowed.

Learned counsel for the State, on instructions, from ASI Arun Kumar, Police Station Dhar Kalan, District Pathankot, verifies that the statement of the victim as mentioned above was recorded on 15.11.2017 after her evaluation by the Director of the Institute of Mental Health and Hospital, Amritsar. As per report dated 17.10.2017 (available on the police file) it is stated that the victim was kept under observation and evaluated psychologically. She was unable to understand Hindi, Punjabi or any language of the region. Therefore, it was difficult to communicate with her verbally. With the help of the person conversant with Assamese language, details about the victim were obtained. She was diagnosed to be a case of psychotic disorder in remission. It is observed that despite the language problem, I.Q. of the victim was about 63% which would be higher if tested in familiar surroundings. It was thus opined by the Director of the said Institute that the petitioner is fit to record her statement in Court with the help of a person who understands her language and dialect. It is verified

by learned counsel for the State that final report under Section 173 Cr.P.C. has been presented. The petitioner is not reported to be involved in any other criminal case. He has been in custody since 05.06.2017. There are no allegations that the 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. Trial of the case is not likely to conclude in the near future. No useful purpose shall be served by keeping the petitioner incarcerated any longer.

Keeping in view the facts and circumstances of the case 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.

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

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

30.01.2018
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(LISA GILL)
JUDGE

Note: Whether speaking/reasoned
Whether Reportable:

Yes / No
Yes / No