

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

**Criminal Misc. No.M-44315 of 2017(O&M)
Date of Decision: January 08, 2018.**

Krishan

Petitioner.

Versus

State of Haryana

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Chirag Kundu, Advocate
for the petitioner.

Mr.Sanjay K. Saini, AAG, Haryana.

LISA GILL, J.

Petitioner seeks the concession of bail pending trial in FIR No. 444 dated 08.11.2016, under Section 365, 363, 366-A, 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Matlauda, District Panipat.

It is submitted that the victim in this case was reported to be missing from her home since 07.11.2016. She was recovered after a month on 08.12.2016 from Railway Station Panipat. Learned counsel for the petitioner submits that the victim in her statement under Section 164 Cr.P.C. (Annexure P-1) has clearly stated that she knew the petitioner and wanted to marry him. Physical relations were established with her consent. She further stated that she does not want to take any action against the petitioner. Learned counsel for the petitioner further submits that the complainant as well as the alleged victim have since testified

before the learned trial Court. The victim in her cross-examination has admitted that she went along with the petitioner out of her own free will and consent and lived with him for one month. It is further stated by her that rape was not committed upon her. The petitioner, it is submitted is in custody since 08.12.2016 and is not involved in any other criminal case. It is thus prayed that this petition be allowed.

Heard learned counsel for the parties.

Learned counsel for the State while opposing this petition submits that the question of consent or otherwise is irrelevant in this case as the victim in this case is a minor. However, on instructions from SI Rajbir, Police Station Madlauda, Panipat, learned counsel for the State verifies that the petitioner is not involved in any other criminal case. He has been in custody since 08.12.2016. There are 20 prosecution witnesses out of whom only four have yet been examined. The complainant as well as the victim in this case have admittedly testified before the learned trial Court.

Photocopies of the statement of the PW-1, PW-2, report of Forensic Science Laboratory Haryana, Madhuban, Karnal, are taken on record subject to just exceptions.

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 in 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 facts and circumstances as above but without commenting upon or expressing any opinion on the merits of the case, this

petition filed by petitioner-Krishan, 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.

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.

08.01.2018

s.khan

[LISA GILL]

Judge

Whether speaking/reasoned

:

Yes/No.

Whether reportable

:

Yes/No.