

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

Criminal Misc. No.M- 44615 of 2017(O&M)

Date of Decision: January 11 , 2018.

Vikas Barala

..... PETITIONER (s)

Versus

Union Territory, Chandigarh

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vinod Ghai, Senior Advocate with
Mr. J.S.Mehndiratta, Advocate and
Mr. Simrandeep S.Sandhu, Advocate
Mr. Birender Singh Rana, Senior Advocate with
Mr. Gagandeep Rana, Advocate and
Mr. Rajinder Paul, Advocate
for the petitioner.

Mr. R.S.Rai, Senior Advocate (Public Prosecutor) with
Mr. Gautam Dutt, Addl. Public Prosecutor
for respondent – U.T. Chandigarh.

Mr. Pankaj Bhardwaj, Advocate
for the complainant.

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.

The petitioner prays for bail pending trial in FIR No.156 dated 05.08.2017, under Section 354D IPC (Sections 341/365/511 read with Section 34 IPC and Section 185 of the Motor Vehicles Act, 1988 were added subsequently), registered at Police Station Sector 26, Chandigarh.

As per the allegations in the FIR, the complainant on the intervening night of 4th and 5th August, 2017 had gone to Chandigarh to pick up her car which had earlier malfunctioned. On her return, while she was on the Sector 7 internal market road, a white TATA Safari car started following her. When the complainant was sought to be intercepted at traffic lights of Sector 7 and 26 by this vehicle, she proceeded towards St. John's High School. Another attempt was made by the driver (the present petitioner) of the said TATA Safari car to block the complainant's car. In the meanwhile, the complainant called the police helpline at 100. Transcript of the conversation of the victim at the said helpline number is attached as Annexure P2 with this petition. It is further mentioned in the FIR that the driver of the TATA Safari vehicle i.e., the present petitioner repeatedly swerved towards her car. She being scared did not stop her car at any place. At the Chandigarh Housing Board junction, the complainant had to stop her car due to red lights. The person (co-accused/non applicant) sitting in the said TATA Safari vehicle came out. He tried to open the rear door of the complainant's car and banged on her car window. The complainant reversed her car and managed to escape from the Chandigarh Housing Board junction. A call was received by the complainant from the police authorities that the car in question had been apprehended. She was asked to come and file a complaint which was duly recorded by her at the police station. The incident is stated to have occurred between 12.20 a.m. to 12.45 a.m. on 05.08.2017. The complainant stated that she was convinced that both the accused intended to abduct her. FIR under Section 354D IPC was initially registered on 05.08.2017. The petitioner and co-accused were released on bail. Thereafter, offences punishable under

Sections 341/365 read with Section 511 IPC as well as Section 185 of the Motor Vehicles Act, 1988 were added. The petitioner was arrested on 09.08.2017.

Learned counsel for the petitioner argues that the present is a case triable by a Magistrate. The petitioner has been in custody since 09.08.2017. The aforesaid FIR was initially registered under Section 354D IPC. The petitioner was arrested in this matter on 05.08.2017 itself and released on bail. Statement of the complainant under Section 164 Cr.P.C. was recorded on 05.08.2017. It is argued that the complaint on the basis of which the FIR was lodged, was actually written by the complainant's father in the presence of a lawyer. It is further submitted that opinion of the District Attorney was sought and offence punishable under Section 365 read with Section 511 IPC was wrongly added on 09.08.2017 due to some pressures. Allegations in the FIR, it is submitted, do not indicate the commission of any offence qua the petitioner and specifically, no offence punishable under Section 365 read with Section 511 IPC is made out. The petitioner himself surrendered on 09.08.2017 in this matter and he has extended complete cooperation in the investigation of this case. Moreover, the complainant in this case has been examined before the learned trial court. The petitioner, who is not involved in any other criminal case, undertakes not to misuse the concession of bail, if afforded to him. It is thus prayed that this petition be allowed.

Learned counsel for the complainant submits that the complainant in this case was saved only due to her alertness as well as providence. It is further submitted that there is a possibility of the petitioner trying to influence the trial, in case the concession of bail is afforded, as the petitioner is a politically well

connected person.

The aforesaid averment of learned counsel for the complainant is vehemently denied by learned counsel for the petitioner, while submitting that the petitioner has extended complete cooperation in the investigation of this case and there is no occasion for such apprehensions. It is infact a case where the petitioner is being victimized in this respect. Moreover, the petitioner undertakes not to contact either the complainant or any of the witnesses in any manner.

Heard learned counsel for the parties at length.

Learned counsel for Union Territory, Chandigarh as well as the complainant affirm and verify that the complainant in this case has since testified before the learned trial court. The petitioner is not reported to be involved in any other criminal case. The petitioner is in custody since 09.08.2017. The matter is admittedly triable by a Magistrate. The complainant/victim in this case has since testified before the learned trial court. Thirty six (36) prosecution witnesses in this case are yet to be examined. Trial in this case is not likely to conclude in the near future. 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. No useful purpose would be served by keeping the petitioner incarcerated any longer in the present facts and circumstances of this case.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition filed by Vikas Barala 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 made clear that the petitioner shall not directly or indirectly try to contact the complainant, any of her family members or witnesses in this case. Any such infraction on the part of the petitioner may entail cancellation of his bail. The petitioner shall not leave the country without prior permission 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.

January 11 , 2018.
'om'

(**LISA GILL**)
JUDGE

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