

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

CRM-M No.44719 of 2017

Date of Decision: January 16, 2018

Surender

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. D. P. S. Bajwa, Advocate
for the petitioner.

Mr. Sanjay K. Saini, AAG, Haryana
assisted by ASI Amarpal for the respondent-State.

LISA GILL J. (ORAL)

The petitioner seeks the concession of bail pending trial in FIR No.288 dated 24.10.2016, under Sections 341, 328, 365, 506, 120-B IPC and Section 6 of POCSO Act, registered at Police Station City Narwana.

It is submitted that the petitioner has been falsely implicated in this case. The prosecutrix named the present petitioner as well as two other persons to be involved in the incident which allegedly took place on the night of 12.09.2016. As per the allegations in the FIR, the victim was coming back from school on 12.09.2016 when the present accused along with co-accused Bunty and Naseeb gave her some intoxicating medicine to be administered to her family members. She accordingly administered the intoxicant at night by mixing it in their tea. It was further alleged that the accused came to her house that night, made her inhale some intoxicant medicine

and took her forcibly to the fields. All three of the accused are alleged to have committed rape upon her and thereafter fled from the spot after threatening her. After regaining consciousness, the victim returned home and narrated the incident to her family members. It is alleged that the matter was compromised on the next day. However, on 21.10.2016, all the accused persons threatened to make public her video which they had prepared. Family of the accused tried to pressurize her for a compromise. Thereafter the abovesaid FIR was lodged.

The FIR it is submitted was lodged after a considerable delay on 24.10.2016 though the incident is stated to be of 12.09.2016. It is pointed out that the prosecutrix in her statement before the learned trial Court on 16.08.2017 has exonerated the co-accused Bunt and Naseeb of the commission of the offence of rape.

Learned counsel for the petitioner argues that father of the prosecutrix borrowed money from the present petitioner due to which the petitioner has been falsely implicated. The prosecutrix admitted in her cross-examination that her father, who is a labourer, used to borrow money from the petitioner. No video clipping has been recovered in this case. It is vehemently urged that credibility of the victim in this case is suspect. There is no evidence on record to substantiate the allegations against the petitioner, who has been in custody since 16.11.2016. The complainant in this case has since been examined before the learned trial Court. It is thus prayed that this petition be allowed.

Heard learned counsel for the parties.

Photocopy of the statement of the victim recorded before the learned trial Court, filed in Court today, is taken on record subject to just exceptions.

It is not in dispute that the prosecutrix while appearing before the learned trial Court has absolved two of the accused. Her testimony has been recorded before the learned trial Court. The petitioner, who has been in custody since 16.11.2016 is not reported to be involved in any other criminal case. 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 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 filed by petitioner-Surender 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/Duty Magistrate.

(LISA GILL)
JUDGE

January 16, 2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No