

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

Criminal Misc. No.M-45289 of 2017(O&M)

Date of Decision: April 25, 2018.

Kuldeep

Petitioner.

Versus

State of Haryana

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.J.S.Lalli, Advocate
for the petitioner.

Mr. Ramesh K.Ambavta, AAG., Haryana.

LISA GILL, J.

Petitioner seeks the concession of bail pending trial in FIR No.156 dated 18.03.2017, under Section 342 IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012, (for short 'POCSO' Act) (later on challan presented under Section 6 of the POCSO Act and Section 8 of the POCSO Act, deleted), registered at Police Station Assandh, District Karnal.

It is contended that the present petitioner has been falsely implicated in this case due to a quarrel between the petitioner's mother and the complainant. The matter was duly reported at the concerned police station. A compromise had taken place between the parties. Prior to the lodging of the present FIR, there was another dispute between the petitioner's brother-Surinder and the complainant. The said matter was also reported and compromised in the police station.

The present petitioner, it is argued met with an accident one day

prior to the alleged incident. He was injured at the time of the alleged occurrence. The medical evidence on record does not substantiate allegations raised against the petitioner. As per the medical evidence, no external or internal injury was detected on the person of the victim. Moreover, the complainant as well as her husband have deposed before the learned trial Court. The child victim has not been cited as a witness in this case. The petitioner, it is submitted has been in custody since 20.03.2017 and is not involved in any other criminal case. He undertakes to face the proceedings and not abuse the concession of bail, if afforded to him. It is thus prayed that this petition be allowed.

Certified copies of the statements of the complainant (PW-3) and her husband (PW-5), furnished in Court today are taken on record subject to just exceptions.

It is noticed that the complainant (PW-3) and her husband (PW-5) have specifically admitted in the cross-examination the factum of quarrel between the complainant and the petitioner's mother and brother prior to the lodging of the FIR. It is further admitted by PW-3 that the petitioner had met with an accident a day prior to the present occurrence. Petitioner was injured in the accident and was unable to walk on the said day.

Needles to say appreciation of evidence is in the domain of the learned trial Court and shall be considered by it. No opinion is being expressed thereon.

Learned counsel for the State has opposed this petition, however, is unable to deny that the complainant as well as her husband have deposed before the learned trial Court. The medical evidence on record is not disputed. On

instructions from ASI Ravinder Kumar, it is verified that the petitioner is not involved in any other criminal case. Eight prosecution witnesses 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 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 Kuldeep, 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.

Petitioner shall not attempt to contact the victim or any of her family members/witnesses in any manner directly or indirectly. Any such infraction may entail cancellation of bail afforded to him.

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.

25.04.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.