

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

Criminal Misc. No.M-4715-2018 (O&M)

Date of Decision: May 17, 2018.

GURDEV SINGH

..... PETITIONER

Versus

STATE OF PUNJAB

..... RESPONDENT

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Jasneet, Advocate
for the petitioner.

Mr. D.S. Sukarchakia, DAG, Punjab.

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.285 dated 12.12.2015, under Sections 363/366A of IPC (Section 376 IPC and Section 6 of the Protection of Children from Sexual Offence Act, were added subsequently) registered at Police Station Cantonment, District Amritsar.

It is submitted that the petitioner has been falsely implicated in the abovesaid FIR registered at the instance of the brother of the victim. Learned counsel for the petitioner argues that the prosecutrix-PW1 in her cross-examination conducted on 28.11.2017 specifically stated that she did not know the accused/petitioner neither did he not ever abduct her or commit rape upon

her. The prosecutrix was declared hostile. The complainant in his cross-examination has also not supported the prosecution version and has been declared hostile. The petitioner, it is submitted, is not involved in any other criminal case and has been in custody since 06.12.2016. The petitioner undertakes not to misuse the concession of bail, if afforded to him. It is thus prayed that this petition be allowed.

Photocopy of the cross-examination of the victim conducted on 28.11.2017 furnished in Court today is taken on record subject to just exceptions.

Learned counsel for the State is unable to deny that the victim as well as the complainant have not supported the prosecution version and have been declared hostile. However, it is contended that in the examination-in-chief both the prosecutrix and the complainant duly stood by the prosecution version.

Be that as it may, the effect or otherwise of the vacillating stand of the prosecutrix and the complainant shall be considered by the learned trial Court at the appropriate time. No opinion is being expressed thereon.

Learned counsel for the State, on instructions from ASI Joga Singh, verifies that the petitioner is not reported to be involved in any other criminal case. He is in custody since 06.12.2016 and only nine (9) out of twenty four (24) prosecution witnesses have been examined. 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.

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.

Keeping in view the facts and circumstances of the case but without

commenting upon or expressing any opinion on the merits thereof, this petition 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.

May 17, 2018
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(LISA GILL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No