

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

Criminal Misc. No.M- 46456 of 2017(O&M)

Date of Decision: February 28 , 2018.

Ravish Malik

..... PETITIONER (s)

Versus

State of Haryana

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. J.S.Bedi, Senior Advocate with
Barrister Rubal Garg, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

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.410 dated 06.07.2017 under Sections 346/376/306 IPC, registered at Police Station Sector 55, Faridabad.

The abovesaid FIR was initially registered under Section 346 IPC on the statement of the complainant (father of the victim) to the effect that his younger daughter aged 22 years, taking an English speaking course near Aggarwal College, left home at 5.00 a.m. on 06.07.2017 without informing any one. An apprehension was expressed that some one had hidden his daughter at an

unknown place. On the same day, deadbody of the complainant's daughter was recovered from the Gurgaon canal. Post-mortem was conducted on 09.07.2017. The complainant suffered a supplementary statement on 04.08.2017 wherein the present petitioner was named as an accused. It is stated in the said supplementary statement of the complainant that his elder daughter and her friend informed him that the deceased was introduced to the present petitioner through Facebook. They used to meet frequently. It is stated that the complainant's daughter and her friend further revealed that on 01.01.2017 the petitioner had called the deceased to his house when his mother was not present at home. Physical relations were formed with the deceased by the petitioner on false assurance of marriage. It was revealed that the deceased and the petitioner had maintained physical relations with each other. The deceased allegedly disclosed these facts to both the girls as well as the refusal by the petitioner to marry her. On 05.05.2017, the deceased called up her friend at about 5.00-6.00 p.m. and talked to her for about an hour. It is stated that the deceased went to the petitioner's house to talk to his mother about their marriage. The petitioner's mother, it is stated, blamed the deceased and told her that she should not have come to meet her son in her absence. The petitioner refused to marry the deceased when his mother questioned him about it. The deceased revealed to her friend that she was upset and in a state of shock. The complainant stated that he came to know about all these facts from his daughter and a friend of the deceased on 31.07.2017. They did not inform him earlier because they were afraid. A suspicion was raised by the complainant that his daughter had been murdered by the petitioner and his mother.

Learned counsel for the petitioner argues that the petitioner has been

falsely implicated in this case. The petitioner's mother, it is submitted, is a widow and was unnecessarily dragged in the controversy. She was however found innocent during investigation. Relationship between the petitioner was entirely consensual. Both of them were major, aged about 22 years at the time of the alleged occurrence. While referring to the Facebook messages/conversation (Annexure P4), it is submitted that there was no element of force and neither was there any assurance much less false assurance of marriage on the part of the petitioner. It is argued that the prosecution for reasons best known to it did not incorporate the entire Facebook conversation as a part of the challan and has relied only on a part of it in a subjective manner. Learned counsel further refers to the said messages/conversation to submit that no offence punishable under Section 306 or 376 IPC is made out. Cause of death in this case, it is submitted, as per the evidence on record is due to drowning. The petitioner, it is stated, is not involved in any other criminal case and has been in custody since August, 2017. The complainant in this case has testified before the learned trial court. The petitioner who himself is a young person 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 State has opposed this petition while submitting that there are specific allegations against the petitioner. Recorded conversation between the deceased and her friend are available on record. The FSL report regarding the CD/Pendrive is still awaited. It is however verified on instructions from ASI Vikas that the petitioner aged about 22 years is not reported to be involved in any other criminal case and has been in custody since

08.08.2017. The complainant's statement has been recorded.

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 made clear that the petitioner shall not directly or indirectly try to contact the complainant or any of his family members or witnesses in this case. Any such infraction on the part of the petitioner may entail cancellation of his bail.

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.

February 28 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No