IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc. No.M-598 of 2018(O&M)
Date of Decision:April 17, 2018.

Akash @ Jony Petitioner.

Versus

State of Haryana

Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Ritu S. Sharma, Advocate
for the petitioner.

Mr. Anmol Malik, AAG., Haryana.

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LISA GILL, J.

CRM-11988 of 2018.

Annexures A-1 to A-3, are taken on record subject to just exceptions.

Application is disposed of.

CRM-M-598 of 2018.

Petitioner seeks the concession of bail pending trial in FIR No.15 dated 31.01.2017, under Sections 506 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Kalka, District Panchkula.

It is contended that the petitioner, who is aged about 19/20 years has been falsely implicated in this case. The medical evidence on record does not reflect any kind of injury, external or internal on the person of the victim. Moreover, the victim while testifying before the learned trial Court (Annexure P-2) specifically stated that no wrong act was committed by the petitioner with her.

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The complainant i.e. the mother of the victim while deposing before the learned trial Court on 09.10.2017 has also not supported the prosecution case. The complainant was declared hostile. Petitioner has been in custody since February 2017. 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.

Learned counsel for the State is unable to deny that the complainant has not supported the prosecution case. She has been declared hostile. The child witness has also not raised any specific allegations against the petitioner. The Medico Legal Report (Annexure A-3) is not in dispute. It is verified on instructions from ASI Kirpal Singh that the petitioner is not involved in any other criminal case.

Needless to say, the evidence on record shall be considered by the learned trial Court, at the appropriate stage. The effect or otherwise of the complainant not supporting the prosecution case, shall also be examined by the learned trial Court. No opinion is being expressed thereon.

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. 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.

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 Akash @ Joni, 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.

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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.

[LISA GILL]
Judge

17.04.2018
s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.

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