

Criminal Misc. No. M- 6884 of 2018 (O&M)

Date of decision : May 24, 2018

Krishan

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Harish Nain, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

LISA GILL, J.**CRM-18647 of 2018**

Prayer in the application is for placing on record cross examination of the prosecutrix as Annexure P-7. The same is taken on record subject to just exceptions.

Application is disposed of.

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The petitioner prays for bail pending trial in FIR No. 146 dated 23.11.2016 under Sections 376, 506, 120B IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Women Mohana, District Sonapat.

It is submitted that the petitioner has been falsely implicated in this case primarily due to matrimonial dispute of his sister with her husband. Husband of the petitioner's sister is the real brother of the prosecutrix. It is contended that the petitioner's sister filed a petition under Section 13 of the Hindu Marriage Act seeking divorce from her husband Jasmer on 04.08.2016. Notice was issued in the divorce petition on 14.09.2016 for

15.11.2016. Present FIR was registered on 23.11.2016. The petitioner named not only the present petitioner but others including her own real brother – Jasmer. Out of eight (08) persons named in the FIR, five (05) were found innocent. The victim's brothers were declared to be innocent. It is the present petitioner, his other brother and sister, who are being proceeded against. It is further contended that one of the real sister of the prosecutrix is married to the elder brother of the petitioner. They are blessed with two children as well. No such complaint was ever made by the prosecutrix to her elder sister neither her sister is arrayed as a witness in this case. Moreover, the prosecutrix in this case has since testified before the learned trial Court. The petitioner, who is not involved in any other criminal case, has been in custody since 07.12.2016. 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.

I have heard learned counsel for the parties.

Learned counsel for the State has opposed this petition while submitting that the prosecutrix has duly supported the prosecution version. On instructions, from ASI Jeet Singh, it is verified that divorce petition by the petitioner's sister was indeed filed as mentioned in the foregoing paras. Learned counsel for the State is unable to deny that real sister of the prosecutrix is married to the real brother of the petitioner and they are living together in the matrimonial home alongwith their two children. Statement of the prosecutrix is on record as Annexures P-4 as well as Annexure P-7. It is informed that twelve (12) prosecution witnesses are yet to be examined. The petitioner is not reported to be involved in any other criminal case. Trial in this case is not likely to conclude in the near future.

There are no allegations on behalf of the State that petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts in the Court, if released on bail.

No useful purpose shall be served by keeping the petitioner incarcerated any longer. Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is considered just and expedient to allow this petition.

Consequently, 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 reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

May 24, 2018

rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No