

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

Criminal Misc. No.M-9436-2018 (O&M)

Date of Decision: May 23, 2018.

Arshvir Singh @ Arsh

..... PETITIONER

Versus

State of Punjab

..... RESPONDENT

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Pratham Sethi, Advocate
for the petitioner.

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

Ms. Satinder Kaur, Advocate
for the complainant.

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. 167 dated 01.12.2017 under Sections 324, 354, 354-B, 355, 506, 148 and 149 of IPC (Sections 307, 295A of IPC and Section 3(1)(ii)(iii)(x)(xi) and 3(2)(v) Schedule Castes and Schedule Tribes (Prevention of Atrocities Act, 1989 and Section 67A of Information and Technology Act, 2000, were added subsequently), registered at Police Station Barnala, District Barnala.

It is submitted that initially the FIR was registered on 01.12.2017 under Sections 324, 354, 354-B, 355, 506, 148 and 149 of IPC. Offences

punishable under Sections 307, 295A of IPC and Section 3(1)(ii)(iii)(x)(xi) and 3(2)(v) Schedule Castes and Schedule Tribes Act and Section 67A of Information and Technology Act, were added on 10.12.2017 without any basis. The petitioner, it is contended, was not named in the FIR. At a later stage on 30.12.2017 the petitioner was stated to be one of the unidentified persons who prepared a video of the incident from the mobile phone of the co-accused Sukhwinder Singh @ Sukha. It is urged that the said mobile phone was never in possession of the petitioner and was admittedly recovered from the possession of the co-accused Sukhwinder Singh @ Sukha. The petitioner, who is 23 years old has been unnecessarily involved in this matter. Final report under Section 173 Cr. P.C has since been presented. Similarly situated co-accused Parminder Singh it is contended was afforded the concession of bail pending trial by the learned trial Court on 30.01.2018 (Annexure P-6). The petitioner, it is submitted, is not involved in any other criminal case and he 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 complainant submits that on specific instructions from her client she does not oppose the present petition due to the family conditions of the petitioner.

Learned counsel for the State, however, submits that specific allegation was indeed raised by the complainant of the video of the incident being prepared by the petitioner. However, on instructions, from ASI Gian Singh, it is verified that the mobile phone in question belongs to the co-accused Sukhwinder Singh @ Sukha and the said mobile has been recovered from Sukhwinder Singh.

The petitioner is not reported to be involved in any other criminal case. Final report under Section 173 Cr. P.C has since been presented. 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 as well as the catagoric stand of the complainant 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-prosecutrix/any of her 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.

May 23, 2018
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(LISA GILL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No