

CRM-M-23762-2020

Date of decision : August 26, 2020

Pardeep

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Chand Ram Olla, Advocate for the petitioner.

Mr. Gagandeep Chinna, AAG, Haryana.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

The petitioner prays for bail pending trial in FIR No. 0049 dated 26.01.2020 under Sections 363, 366A IPC (Section 323, 354 (i) (ii), 376, 506 IPC added later) and Section 10 of The Protection of Children from Sexual Offences Act (for short – ‘The Act’), registered at Police Station Tosham, District Bhiwani.

It is submitted that the petitioner, who is 23 years old, has been falsely implicated in this case due to certain misunderstandings. The allegations in the FIR registered on 26.01.2020, are that the victim is the complainant's daughter. She is the eldest of his three children. She studied up to 9th standard and had left school about two years prior to the incident and was residing at her residence with the family. It is further stated that on 25.01.2020 at about 11.00 p.m., the complainant and his family were sleeping after having dinner. All of them were sleeping in one room. The complainant's wife was sleeping on the adjoining bed of their daughter. The complainant's wife woke up at 3.00 a.m. and found that their daughter was not on her bed. All of them searched for the victim but she was not to be found. An apprehension was raised that she had been taken away, forcibly, by the petitioner with an intention to marry her. It is stated that the petitioner earlier

used to talk to the complainant's daughter, who was stated to be about 17 years old.

Learned counsel for the petitioner argues that no offence punishable under Section 363, 366A, 323, 354 (i) (ii), 376, 506 IPC and Section 10 of the Act is made out against the petitioner. A totally different version has been given by the alleged victim in her statement under Section 164 Cr.P.C., wherein she states that she was taken by the petitioner on 25.01.2020, from a different place. It is vehemently argued that it is not possible that the victim would be taken to various places as mentioned by her and she never raised any hue and cry. Learned counsel urges that the victim, in this case, being a minor, is debatable. Furthermore, the victim, her mother and father i.e. the complainant, have clearly stated, in their respective affidavits, that the abovesaid FIR was registered due to certain misunderstandings and that the victim had left the house out of her own accord and she was not been subjected to any act, which indicate commission of the offences as mentioned in the FIR. Learned counsel for the petitioner further submits that the victim refused to have her medical examination conducted as per Annexure P3. Challan/final report under Section 173 Cr.P.C. stands presented. Due to outbreak of the pandemic, COVID-19, trial is not likely to conclude in the near future. It is, thus, prayed that this petition be allowed.

I have heard learned counsel for the parties.

Learned counsel for the State while opposing the petition submits that the victim, in this case, was a minor and serious allegations have been levelled against the petitioner. However, it is not denied that the version given by the victim in her statement under Section 164 Cr.P.C is not in consonance with the allegations as raised in the FIR. Refusal of medical examination by the victim is also not denied. It is verified by learned counsel for the state, on instructions from ASI

Anand Kumar, that the petitioner is not involved in any other criminal case and has been in custody since 03.02.2020 and final report under Section 173 Cr.P.C./challan stand presented.

Due to outbreak of the pandemic, COVID-19, not much progress is being made towards the conclusion of the trial. 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, 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/concerned Duty Magistrate.

It is made clear that the petitioner shall not try to contact the complainant or any other family members, directly or indirectly. Any such infraction on the part of the petitioner shall entail cancellation of this bail.

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.

August 26, 2020

(Lisa Gill)
Judge

rts

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