

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

**CRM-M-25540-2017
Date of decision :03.08.2017**

Sukhwinder Kaur

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Jitender Malik, Advocate
for the petitioner.

H.S. MADAAN, J. (Oral)

This petition for pre-arrest bail has been filed by petitioner-Sukhwinder Kaur an accused in FIR No.64 dated 01.06.2017 for offences under Sections 497, 379 read with Section 34 of the Indian Penal Code (“*IPC*” - for short) registered with Police Station Bhogpur, District Jalandhar.

Briefly stated the facts of the case as per prosecution version are that the FIR in this case was registered on the statement of Balkar Singh son of Harbhajan Singh resident of village Jhalli, Police Station Bhogpur, District Jalandhar (Rural) aged about 60 years, an agriculturist by avocation,

who had stated that his son Jarnail Singh was married with Sukhwinder Kaur daughter of Jagdish Singh resident of Terkiana, Police Station Dasua, District Hoshiarpur, which was culmination of a love affair. However, they were against the said marriage. Nevertheless after the marriage, the couple started residing with them in the same house, but Jarnail Singh and Sukhwinder Kaur had a separate kitchen from them. As a matter of fact there was not interaction between the complainant and his wife on one side and Jarnail Singh and his wife on the other side. That on 03.05.2017 at about 7:00 a.m., when complainant woke up, he felt giddy rather he had woken up somewhat late than daily routine. He observed that Almirah of their room was open and belongings therein were lying here and there. In the meanwhile, Jarnail Singh came there and asked about his wife Sukhwinder Kaur stating that she was not present at their house since long. Jarnail Singh was also complaining severe pain in head. According to the complainant, he along with Jarnail Singh started searching for Sukhwinder Kaur and found that lock of rear gate of their house was open which usually was closed. They tried to search for Sukhwinder Kaur making telephonic call at the parental house of Sukhwinder Kaur but she was not found to be present there. On checking of Almirah in his room the complainant found that one pair of gold earrings weighing 1 *Tola*, one gold chain weighing 2 *Tolas*, four pairs of toppas weighing 3 *Tolas* etc. total weighing 10 *Tolas* belonging to the complainant and his mother; and cash amount of ₹1.5 lacs was missing. Some important documents were also not there, wrapper of Tranquilizer tablet was found to be lying in Almirah having one tablet only.

During search they came to know that Sukhwinder Kaur had illicit relations with Amritpal Singh son of Harjit Singh resident of Shakti Nagar, Bhogpur and such Amritpal Singh was also missing from his home. In that way Sukhwinder Kaur had eloped with Amritpal Singh after committing theft from house of the complainant.

Feeling apprehensive of being arrested in the case, she had approached the Court of learned Additional Sessions Judge, Jalandhar with a prayer for grant of pre-arrest bail, but her request was declined by learned Additional Sessions Judge, Jalandhar vide order dated 11.07.2017, as such, she has knocked at the door of this Court with a similar request by way of filing the instant petition.

Notice of the petition was given to the State. State has appeared through Mr. K.S. Aulakh, Deputy Advocate General, Punjab who has opposed the petition.

I have heard learned counsel for the parties, besides going through the record and I find that there is no merit in the petition.

Learned counsel for the petitioner has argued that a false FIR has been got registered by the complainant against the petitioner / accused- Sukhwinder Kaur for the reason that a matrimonial dispute had been there between the petitioner on one side and her husband and in-laws on other side for which she had submitted a complaint to the police and for that reason the complainant has lodged the FIR as a counter-blast.

On the other hand learned Stated counsel has contended that the petitioner had not lodged any complaint with the police of Police Station

Bhogpur, District Jalandhar earlier regarding her alleged maltreatment and harassment at the hands of her husband and in-laws and copy of complaint attached with the petition is shown to be dated 26.05.2017. Therefore, it seems to have been created just to render plausible explanation for the registration of the FIR. He had contended that in view of the seriousness of the allegations against the petitioner and fact that her custodial interrogation is necessary to effect the recovery of the stolen articles, the petition be dismissed.

After hearing the rival contentions I find that the explanation rendered by learned counsel for the petitioner for registration of the present FIR does not seem to be plausible on the face of it. It is not case of petitioner that she has lodged any FIR against her husband and in-laws much prior to registration of the present FIR against her. She is not shown to have filed any private complaint in that respect even. It is specific case of the complainant that petitioner / accused has eloped with one Amritpal Singh son of Harjit Singh resident of Shakti Nagar, Bhogpur after committing theft from her matrimonial home. At this stage question to be decided is that as to whether pre-arrest bail is to be granted or not. The truthfulness of the allegations in the FIR is not to be determined by holding a mini trial and the allegations are to be taken as such. Pre-arrest bail is a relief which is not to be granted just at the asking of an accused in routine manner but in exceptional circumstances. Its purpose is not to screen the criminals from legal action and to save them from custodial interrogation which being mere elicitation-oriented, result in the extraction of the

important information from mouth of a criminal. The petitioner is specifically named in the FIR, recovery is yet to be effected from her. Her custodial interrogation is necessary for proper and effective investigation. In case such custodial interrogation is denied to the investigating agency, that will leave many loose ends and loopholes, adversely affecting the investigation which is uncalled for. Thus finding no merit in the petition, the same stands dismissed.

03.08.2017*Gaurav Sorot*

**(H.S. MADAAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**