

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

CRM-M No. 45442 of 2016(O&M)

Date of Decision: 09.02.2017

Rajpal Malik and anotherPetitioners

VERSUS

State of Haryana and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. R.S. Rai, Senior Advocate with
Mr. Sushil Jain, Advocate for the petitioners.

Mr. Vikas Malik, AAG, Haryana.

Mr. J.S. Dahiya, Advocate for respondent No.2.

REKHA MITTAL, J.

CRM No.2320 of 2017

Notice of the application to counsel for the non-applicants/respondents.

Heard.

In view of averments made in the application supported by an affidavit of Rajpal Malik-petitioner No.1, coupled with there being no contest by the respondents, the application is allowed and the applicant-petitioners are permitted to modify the head-note and prayer of the petition.

Disposed of accordingly.

CRM No.3225 of 2017

Heard.

Allowed as prayed for.

Amended petition is taken on record.

Disposed of accordingly.

CRM-M No.45442 of 2016

The petitioners pray for grant of bail in anticipation of arrest in FIR No.152 dated 23.10.2016 (Annexure P-1) initially registered for offence under Sections 354-A(1), 451 and 506 of the Indian Penal Code, 1860 (in short 'IPC') (offence under Section 376 and 511 IPC added later) with Police Station Women Sector 16, Faridabad.

As per the allegations raised by the complainant, on 12.10.2016 at about 8:30 PM when she was going towards her room after finishing domestic chores, her father-in-law Rajpal Malik who had consumed liquor caught her hand and grabbed her from the backside by pulling her towards his room and made her to fall on the bed. He hit his hand on her chest and she started screaming loudly. Her father-in-law closed her mouth. On hearing screams, Akashdeep her brother came there and her father-in-law left her. He (Rajpal Malik) started abusing the complainant and her brother and said that in case they disclose the occurrence, he would kill her. After 15-20 minutes, Gagandeep Malik phoned her and said that the complainant should expel her brother from the house otherwise he would see to it. He further said that the complainant has to act according to commands of his father as the house belongs to him (his father).

Counsel for the petitioners has submitted that the instant FIR has been lodged at the behest of Rubeena Malik wife of Navdeep Malik, daughter-in-law of Rajpal Malik- petitioner No.1 and sister-in-law (Bhabhi) of petitioner No.2. Petitioner No.1 was appointed as Assistant Legal Advisor in the year 1985 in Oil and Natural Gas Corporation and retired from the post of Deputy General Manager (Legal) in December

2014. Marriage of Rubeena with Navdeep Malik was performed in February 2004 and at that time, petitioner No.1 was posted at Mumbai. It is argued that as the complainant is in habit of making quarrel with all the family members and Balwan Singh, father of the complainant, always interfered in family affairs of the complainant, petitioner No.1 arranged a house on rent for his son and daughter-in-law at Bahadurgarh. Petitioner No.1 purchased Flat No.B-110, First Floor, Green Field Colony, Faridabad in his name and in the name of Navdeep Malik. Petitioner No.1 had borne all the expenses of further education of the complainant i.e. M.B.A., B.Ed. and J.B.T. He has been bearing all the expenses of study/school fee of Krishna, son born to the complainant and Navdeep Malik. In the year 2010, petitioner No.1 applied for a plot of 385 square yards in Sector 2, Bahadurgarh in the name of the complainant with an understanding that the property would be of the family and the entire money for purchase of said property was spent by petitioner No.1. It is argued with vehemence that dispute arose amongst the family members when petitioner No.1 expressed his desire to distribute the property i.e. plot at Bahadurgarh as well as other belongings between two sons of the family namely Gagandeep Malik- petitioner No.2 and husband of the complainant.

Another submission made by counsel is that with regard to occurrence dated 12.10.2016, FIR has been registered after a delay of 11 days. In addition, it is argued that as per allegations of the complainant, her brother- Akashdeep was present in the house at the time of alleged occurrence and his presence creates a serious doubt in the story propounded by the complainant to defame petitioner No.1 and implicate her brother-in-law (Devar) petitioner No.2. The last submission made by counsel is that as petitioner No.1 is the owner of the flat (alleged place of

occurrence) and on the day of incident, he was residing there, no offence under Section 451 IPC is otherwise made out.

Counsel for the complainant has strongly opposed the application with the submission that petitioner No.1, a senior citizen and father-in-law of the complainant, has committed an extremely shameful act, taking advantage of his financial position and husband of the complainant being a drug addict, therefore, he is not entitled to pre-arrest bail.

I have heard counsel for the parties and perused the records.

Concededly, no recovery is to be effected from the petitioners requiring their custodial interrogation. As per the allegations brought-forth by the complainant, her brother Akashdeep was present in the house at the time when the alleged occurrence had occurred. There is no denial to the plea raised by the petitioners that petitioner No.1 is co-owner of the flat where the occurrence allegedly took place and on the day of incident i.e. 12.10.2016, he was residing there. It is a highly debatable issue to be determined during trial if petitioner No.1 could dare to commit such an act knowing fully well that Akashdeep, brother and son of the complainant aged more than 11 years were present in the house. Without dilating further, lest it may cause prejudice to either of the parties during the course of trial, I do not find any reason to deny benefit of bail in anticipation of arrest, in the given circumstances.

For the foregoing reasons, the petition is allowed with a direction that the petitioners shall join investigation within a period of 10 days and on their appearance before the Investigating Officer, in the event

of arrest, they shall be released on bail subject to satisfaction of the Investigating Officer. However, they shall abide by the following conditions:-

- (i) they shall make themselves available for interrogation by a police officer as and when required;
- (ii) they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) they shall not leave India without the previous permission of the Court;

FEBRUARY 9, 2016

‘D. Gulati’

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no