

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 12700 of 2018 (O&M)

Date of decision : 21.9.2018

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Deepak

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Shashi Bharat Bhushan, Advocate
for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana

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H. S. Madaan, J.

This petition for pre-arrest bail has been filed by petitioner Deepak, being an accused in FIR No. 4 dated 27.1.2018, for offences under Sections 354, 354 A(1) (i), 451, 506, 376, 511 IPC registered at Women Police Station, Hansi, District Hisar.

Briefly stated, facts of the case, as per the prosecution story are that on 7.12.2017, at about 10.00 A.M., while the complainant (name withheld to conceal the identity), w/o Desraj, aged about 35 years, r/o Tikona Park, Hansi, was alone at her house, then her brother-in-law (devar) Deepak came for getting henna applied on his hair by the complainant. The complainant accordingly did so. However, Deepak started doing obscene activities with the complainant and tried to outrage her modesty. The complainant saved her honour with a great difficulty and went to the house of Mohini @

Mini, daughter of Suresh Yadav. Husband of the complainant was lodged in jail. She informed him telephonically. On the next day of the incident, Deepak went to the house of the complainant and threatened her that if she disclosed anything regarding the incident to anybody, then he would kill her. On the basis of such statement of the complainant, formal FIR was registered.

Apprehending his arrest, in this case, petitioner – accused Deepak had approached the Court of Sessions, by way of filing a petition for pre-arrest bail. His such petition was assigned to Additional Sessions Judge-cum-Special Court for Heinous Crime Against Women, Hisar, who dismissed the said petition, vide order dated 16.3.2018, as such the petitioner – accused Deepak has approached this Court, craving for grant of similar relief, which prayer is being opposed by the learned State counsel.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record.

In the instant case, there are serious allegations against the petitioner of trying to outrage the modesty of his own sister-in-law and then holding out threats to kill her, if she disclosed the incident to anybody. Such type of behaviour cannot be taken lightly. Incidents of eve-teasing and sexual harassment of women are increasing at an alarming rate. The culprits have to be dealt with sternly to send a strong message in the society that people indulging in such undesirable activities shall have to face serious consequences and they should not expect to be let off lightly.

In the instant case though, as per counsel for the

petitioner, there is delay of 50 days and prosecutrix had not got herself medically examined and further there is a property dispute between the parties, in as much as, the complainant has grabbed 100 yards property belonging to her father-in-law. Counsel for the petitioner has placed on file copy of petition filed by Sohan Lal, father-in-law of complainant against her and her husband.

However, these contentions, hardly help the petitioner in getting pre-arrest bail. The delay in lodging the FIR is to be viewed in light of the fact that husband of the complainant is lodged in jail, the complainant being alone and under threat of accused, who was none else but a close relative, might not have gathered courage to contact the police and report the incident. Though with passage of time, she could gather courage to do so. Furthermore, no woman would like to have stigma on her moral character by levelling such type of allegations falsely. Therefore, delay in reporting the matter in this case, is not of much significance.

As far as, the complainant having not got herself medically examined, that hardly makes any difference, since in the instant case, the allegations are of molestation and not of rape. Further more the complainant has nowhere alleged that she had a scuffle with the accused or that accused had assaulted her, causing her injuries. Therefore, there was no necessity for the complainant to get herself medically examined.

As far as allegations of the complainant having grabbed the property of her father-in-law and lodging the present FIR on false allegations against the accused, who is younger brother of her

husband, again as mentioned above, such type of allegations are not normally levelled to settle some other score, though the petitioner may be able to prove such allegations during the trial.

According to the State counsel, the accused has admitted his fault when summoned by the Women Cell.

Keeping in view the facts and circumstances of this case, the petitioner has not been able to make out a case for grant of discretionary equitable relief of pre-arrest bail, which as a matter of fact has to be granted in exceptional circumstances, to save the innocent persons from harassment and inconvenience and not to screen the criminals from custodial interrogation.

Here petitioner is certainly not entitled to the relief of pre-arrest bail. His custodial interrogation is found to be necessary for complete and effective investigation and if the same is denied to the Investigating Agency that would leave many gaps and loop holes, which is not called for.

Thus finding no merit in the petition, the same stands dismissed.

21.9.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No