

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

CRM-M-22322-2018

Date of decision:-19.9.2018

Sunil

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Vikas Bishnoi, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

Mr.Sanchit Punia, Advocate
for the complainant.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Sunil, an accused in FIR No.21 dated 7.5.2018, under Sections 376(2)N, 452 and 506 IPC, registered at Women Police Station, Hisar.

Briefly stated, the facts of the case as per the prosecution story, are that the complainant/prosecutrix (name not being mentioned to conceal her identity and referred to as '*the prosecutrix*') daughter of

Ramavtar, resident of Chanderlok Colony near Lifeline Hospital, Azad Nagar, Hisar, aged about 30 years was married with one Kuldeep son of Kour Singh, resident of Rori, Sirsa 17-18 years prior to the incident; that the couple was blessed with two children, however, the prosecutrix/complainant developed a dispute with her husband and started residing at her parental house for the last about five years and her both children have been residing with her husband; that the complainant had filed a case against her husband in the court of law; that petitioner/accused Sunil, a resident of village Gangwa was acquainted with the complainant for almost one year; that prior to the incident, he used to visit the complainant at her house asking the complainant to get married with him; that giving her allurements of marriage, the accused managed to have physical relations with the complainant; that on 6.5.2018 at about 11:30 a.m. while the complainant/prosecutrix was alone at her home, then accused came to her house and had forcible sexual intercourse with her; the complainant asked him to marry her but accused rather threatened to kill her and went away.

On the basis of a written complaint submitted by the complainant to the police, formal FIR was recorded.

Apprehending his arrest in this case, the petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, his such request was declined by learned Additional Sessions Judge cum- Special Court for Heinous Crime Against Women, Hisar vide order dated 16.5.2018. As such, the petitioner has approached this Court asking for the similar relief.

Notice of the petition was given to respondent – State, which put in appearance through counsel. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the records and I do not find any merit in the present petition.

Learned counsel for the petitioner has contended that the petitioner has since joined the investigation; no recovery is to be effected from him; the prosecutrix/complainant had an affair with the petitioner having live-in relationship; thereafter, she started pressurising the petitioner to marry her; the petitioner could not do so since the complainant is already married having children, as such, she lodged a false FIR. Learned counsel for the petitioner has referred to authority **Ritika Versus State of Punjab and another, 2018(1) Law Herald 28** by a Division Bench of this Court. As per the facts of the case, the prosecutrix was already married and without getting the said marriage dissolved, she had been insisting upon getting married with the accused. The prosecutrix was not only older in age to the accused and she had already settled in life, whereas the accused was a student, who was yet to be settled down in the life. It was observed that no fault can be found with the findings arrived at by the learned trial Court in acquitting accused of the charges against him.

On the other hand, learned State counsel has contended that the petitioner is a hardened criminal inasmuch as he is involved in several criminal cases, details of which are as under:

Sr.No.	FIR/dated	Offences	Police Station
1.	587/19.6.2018	323, 34, 452, 506 IPC	Sadar, Hisar
2.	455/31.5.2016	61 of Punjab Excise Act	Sadar, Hisar
3.	1066/26.10.17	323, 34, 341, 506 IPC	Sadar, Hisar
4.	1069/27.10.17	323, 34, 341, 427, 506 IPC and 25 of Arms Act	Sadar, Hisar
5.	628/30.7.2010	148, 149, 307, 323 IPC and 25 of Arms Act	Sadar, Hisar
6.	636/20.6.2013	147, 149, 323, 506 IPC	Sadar, Hisar

Learned State counsel further submits that though the petitioner has joined the investigation but has not come out with complete facts within his knowledge, therefore, his custodial interrogation is required and pre-arrest bail be not granted to him.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from custodial interrogation. The petitioner has got a long criminal record.

In case of **State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268**, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioner is definitely required for complete and effective investigation. In case custodial interrogation of

the petitioner is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

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

19.9.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No