

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

CRM-M-22732-2018

Date of decision: 26.9.2018

Nishan Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Amit Arora, Advocate
for the petitioner.

Mr.Samina Dhir, DAG, Punjab.

Mr.R.S. Sidhu, 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 - Nishan Singh, an accused in FIR No.59 dated 17.3.2018, under Sections 376, 511, 323, 506, 34, 120-B IPC, registered at Police Station Sadar, Tarn Taran.

Briefly stated, the facts of the case, as per the prosecution version are that the prosecutrix was married with Gurjudge Singh, who had been residing abroad and would come to India for some time; that Gurjudge Singh used to give beatings to his wife - the complainant right from the beginning and he was supported by his elder brother and father for doing that; that Nishan Singh (present petitioner), an elder brother of

Gurjudge Singh had thrown out his wife from the matrimonial home 2-3 years earlier; that on 13.3.2018 while the complainant was present in the matrimonial home and was doing household work, then Nishan Singh, caught hold of the complainant from her arm and forcibly took her to a room; that he tried to have physical relations with the complainant against her consent; the complainant raised hue and cry, then Nishan Singh left her and went out of the house, however, husband and other members of his family though informed by the complainant regarding the incident did not show any sympathy with her, rather they gave beatings to the complainant; that Nishan Singh joined them in doing so; he gave two *dang* blows to the complainant, one blow hitting her on right side of back and the other on right elbow, then all of them stated that they would burn the complainant alive so that Gurjudge Singh can contract a second marriage; they forcibly put the complainant in Alto car and took her to house of the mediator Sukhwinder Singh at village Jhamka Khurd; Sukhwinder Singh informed parental family of the complainant, who took the complainant along with them, got her medically examined and then the matter was reported to the police by the complainant, on the basis of which 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. His such application had been assigned to learned Additional Sessions Judge, Tarn Taran, who vide order dated 14.5.2018 dismissed the same, 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 record.

There are serious allegations of harassment of complainant by the petitioner and his attempting to have sexual intercourse with her against her consent and when complainant raised hue and cry, he denied the allegations and joined his family members in giving beatings to the complainant and turning her out of the matrimonial home. It has been informed by the State counsel that accused is an absconder and proceedings for declaring him a proclaimed offender are going on. Such type of person does not deserve any leniency.

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 oriented 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 and to effect the recovery of the weapon used in the incident. 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.

26.9.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No