

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

CRM-M-25160-2018

Date of decision:-20.8.2018

Ashish Soni

...Petitioner

Versus

State of Punjab

...Respondent

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

Argued by: Mr. Vijay Lath, Advocate
for the petitioner.

Mr.Rakeshwinder Singh Sidhu, AAG, Punjab.

Ms.Sukhpreet Kaur, Advocate
for the complainant.

H.S. MADAAN, J.

The instant petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by petitioner – Ashish Soni, an accused in FIR No.62 dated 21.5.2018, under Section 376 IPC, registered at Police Station Balachaur, District SBS Nagar.

Briefly stated, the facts of the case are that FIR in question was lodged by complainant (name not being mentioned to conceal her identity and referred to as '*the victim*'), aged about 29 years by making a statement to the police. *Inter alia*, in the said statement, she stated that she and Ashish Soni (present petitioner) resident of Siana, Ward No.13, Balachaur are known to each other for the last about 10-12 years; that Ashish Soni used to say that he wanted to marry the complainant, therefore they developed physical relations; that later on Ashish Soni told the complainant that he was unable to marry her, since his parents wanted

to fix his marriage with some other girl; that the complainant pleaded with him not to do so but to no effect; that the complainant informed her mother, who contacted family of Ashish Soni but they could not be convinced to agree to marriage of Ashish Soni with the complainant, as such, the complainant reported the matter to the police.

On the said statement, the matter was probed by the police. Thereafter, formal FIR was registered.

Apprehending his arrest in this case, the petitioner has approached the Court of Sessions for grant of pre-arrest bail but his such application was declined by learned Additional Sessions Judge, SBS Nagar vide order dated 1.6.2018. Feeling aggrieved, he has approached this Court for grant of similar relief.

Notice of the petition was issued to the respondent - State, who 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.

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.

There are serious allegations against the petitioner having sexual intercourse with the complainant repeatedly by giving her allurements of marriage, which he did not actually want to do. As regards the authorities referred to by learned counsel for the petitioner i.e. Criminal Appeal No.1949 of 2013 titled 'State of U.P. Versus Naushad',

decided on 19.11.2013 and Criminal Appeal No.1369 of 2004 titled 'Yedla Srinivasa Rao Versus State of A.P.', decided on 29.9.2006, those observations were made keeping in view the peculiar facts and circumstances of the case and while hearing the appeals on merits. Here we are dealing with a case for grant of pre-arrest bail. For allowing or declining such relief, the yard-stick to be adopted is whether custodial interrogation is required for effective investigation, whether conduct of petitioner is such, which entitles him to this exceptional relief. Similarly the seriousness and gravity of the offence of which such person is accused is also to be kept in mind.

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.

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.

20.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No