

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

CRM-M-26002-2018

Date of decision:-11.9.2018

Pankaj Singh

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Manjeet Singh, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

Mr.Rajesh K. Sheoran, 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 – Pankaj Singh, an accused in FIR No.34 dated 23.5.2018, under Sections 365, 376, 342, 506 and 354 D(ii) IPC, registered at Police Station Women, Bhiwani.

Briefly stated, the facts of the case as per prosecution story, are that on 22.5.2017, the victim wife of Manoj Kumar, resident of New Bharat Colony, Bhiwani had gone to Hansi for purchase of medicine; that while she was waiting to board a bus near Kali Devi Temple, Hansi,

Pankaj (present petitioner) son of Mewa Singh, resident of Prem Nagar, a friend of Mahesh, brother-in-law of victim, came in a vehicle stopping it near the victim and offered to take her to Bhiwani; since the petitioner/accused was already acquainted with the victim, therefore, they started having talks regarding their families, then Pankaj told the victim that he was having pain in the abdomen and wanted to ease himself, then they reached in the room of Jindal Guest House near bus stand Bhiwani at about 4:00 p.m.; the petitioner/accused told victim that she might eat something in the meantime, while he went to ease himself; thereafter, he bolted the room and started behaving in an inappropriate manner with the victim, though the victim resisted but to no effect and Pankaj had forcible sexual intercourse with her; thereafter, the petitioner took obscene photographs of the victim with his mobile phone; when the victim started weeping, the petitioner/accused threatened her that in case she discussed the matter with anybody, then he would show her nude photographs to them and also threatened to kill her; the complainant/victim succeeded in running away from that place and disclosed everything to her husband Manoj Kumar after reaching home. On written complaint of the complainant/victim, formal FIR was registered.

On registration of formal FIR, 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 (Exclusive Court), Bhiwani vide order dated 4.6.2018. 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.

Learned counsel for the petitioner has contended that the victim had maintained physical relations with the petitioner/accused with consent and subsequently when information regarding that got leaked, then she lodged the FIR; that she had been in contact with the petitioner telephonically and through Whatsapp; that she had an affair with the petitioner; that CC TV Footage from Suncity Mall, Hisar goes to show that she was accompanying the petitioner willingly; that the complainant was a consenting party and subsequently to save her own skin, after delay of 24 hours, she lodged the FIR.

These contentions are strongly controverted by learned counsel for the complainant and learned State counsel.

I on my part feel that the genuineness of messages on Whatsapp allegedly sent by complainant/victim to the petitioner as well as CCTV Footage is to be established in accordance with law, as yet. Furthermore, the plea taken by the petitioner is that the complainant was a consenting party, which goes to show that he admits having sexual intercourse with the complainant. Again, it is a matter of evidence, whether she was a consenting party or not. The allegations against the petitioner are very grave and serious of raping a married woman, who reposed a trust in him, taking her nude photographs and then blackmailing

her besides giving threats to eliminate her.

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.

11.9.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No