

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

CRM-M-26085-2018

Date of decision:-29.8.2018

Rajesh

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Anil Kumar Garg, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Rajesh, an accused in FIR No.230 dated 28.5.2018, under Sections 354-A, 452, 506 IPC (Section 376 ICP has been added later on), registered at Police Station City, Tohana, District Fatehabad.

Briefly stated, facts of the case as per prosecution story are that on 28.5.2018 when husband of complainant (name not being mentioned to conceal her identity and referred to as '*the victim*') namely

Vicky had gone out of the house in connection with some work, at about 12:00 p.m., petitioner/accused Rajesh, resident of Narwana from whom, the complainant had borrowed some money came to the house of the complainant and started doing immoral acts with her going to the extent of molesting her, thereafter, he warned the complainant not to disclose the said incident to anybody, otherwise he would kill her; that he stated that he would be visiting her daily. On the statement of victim, formal FIR was registered.

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 Sessions Judge, Fatehabad vide order dated 8.6.2018. As such, the petitioner has approached this Court asking for similar relief.

Notice of the petition was given to respondent – State, which put in appearance 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 FIR is based upon false assertions and it has been lodged to avoid payment of loan taken by husband of the complainant from the petitioner/accused; that the husband of the complainant runs a shop near police station, as such, using his relations with the police has got registered the FIR in question; that the petitioner has already joined the investigation, therefore, his custodial interrogation is not required and he be granted pre-arrest bail.

Learned State counsel has contended that the allegations

against the petitioner are very serious and grave. Though he has joined the investigation but has not disclosed complete facts within his knowledge, therefore, his custodial interrogation is required and the petition be dismissed.

After hearing learned counsel for the petitioner and State counsel, I find that the allegations against the petitioner/accused are very serious of trespassing into the house of complainant when her husband was not there and then molesting her, outraging her modesty and then giving threats to her. Such type of sexual assault at the house of complainant, when she was alone cannot be taken lightly. As regards the contention that the FIR has been lodged on wrong allegations in connivance with police just to avoid repayment of loan amount, that does not seem convincing since no woman would invite stigma on her moral character normally by levelling such type of allegations. Further the police can certainly be not a party to such wrongful acts more particularly when neither the complainant nor her husband come out to be so influential so as to make the police act in a wrongful manner. In statement under Section 164 Cr.P.C. of the victim got recorded by SDJM, Tohana, she had repeated on oath her version as given in the FIR, rather giving more details thereof.

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.

29.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No