

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

CRM-M-26443-2018(O&M)

Date of decision:-7.9.2018

Ashok

...Petitioner

Versus

State of Haryana and another

...Respondents

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

Present: Mr.Sachin Mittal, Advocate
for the petitioner.

Ms.Aditi Girdhar, AAG, Haryana.

Mr.Dilpreet Singh Gandhi, 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 – Ashok, an accused in FIR No.205 dated 26.5.2018, under Section 376 IPC, registered at Police Station Udyog Vihar, Gurugram.

Briefly stated, facts of the case as per prosecution story are that Sonu, husband of the prosecutrix had expired on 14.4.2017. The

couple had three children. Before his death Sonu was not keeping good health and then accused Ashok living in their neighbourhood, used to visit the house of Sonu and prosecutrix and would provide financial help at times. On 10.2.2017, he committed rape upon the prosecutrix threatening her not to disclose the incident to anybody. After death of husband of prosecutrix, the accused kept visiting the prosecutrix at her house despite opposition being offered by the complainant/prosecutrix. On 23.5.2018 at around 8:15 O'clock, while the prosecutrix was alone at home, then accused came there and tried to have forcible sexual intercourse with her, however, the prosecutrix raised alarm, which attracted neighbours and in that way, situation was saved. The accused had been compelling the prosecutrix to reside with him. On the basis of application made by the prosecutrix, 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 Additional Sessions Judge, Gurugram vide order dated 11.6.2018. 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 and I do not find any merit in the present petition.

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 allegations against the petitioner are very grave and serious of repeatedly committing rape upon a married woman, who was in miserable condition earlier on account of illness of her husband and later on due to his death. The plea raised by learned counsel for the petitioner that the complainant and her family used to take financial assistance from the petitioner and when petitioner demanded the amount back, then instead of doing so, the prosecutrix lodged the FIR against him on false allegations rather after lodging of the FIR, the prosecutrix wants to fleece more money from the petitioner/accused.

However, learned counsel representing the complainant vehemently denies such allegations stating that those have been concocted so as to make up a probable defence.

I on my part feel that the plea put forward on behalf of the petitioner lacks merit. In the FIR itself, the complainant has contended that the petitioner used to visit her house and would provide financial assistance at times and then committed rape upon her. Certainly it was not a loan advanced to prosecutrix but a ploy to exploit her so as to make her keep quiet.

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.

7.9.2018

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No