

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

CRM-M-26505-2018

Date of decision:-21.8.2018

Sunil Kumar and others

...Petitioners

Versus

State of Haryana

...Respondent

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

Present: Mr.S.P. Chahar, Advocate  
for the petitioners.

Mr.Gaurav Bansal, AAG, Haryana.

Mr.Sanjeev Kodan, Advocate  
for the complianant.

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**H.S. MADAAN, J.**

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioners – Sunil Kumar, Anil Kumar and Shakuntla Devi, all of them being accused in FIR No.74 dated 23.5.2018, under Sections 323, 376, 506 IPC, registered at Women Police Station, Jhajjar.

Briefly stated, the facts of the case as per prosecution story are that FIR in this case was got recorded by complainant Pooja, who in the written complaint submitted by her addressed to Superintendent of Police, Jhajjar stated that she was married with Sunil Kumar son of Ram Kumar; that after death of her parents, she was harassed a lot; that her maternal uncle by giving threat to kill, got her property transferred in his name; that her in-laws also started harassing her for property; that her wife

(should be mother-in-law) and younger brother-in-law (DEVAR) beat her up several times and her brother-in-law Anil had forcibly sex with her; that her husband and mother-in-law supported her said brother-in-law and that her life is in danger.

On registration of formal FIR, apprehending their arrest in this case, the petitioners had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, their such request was declined by learned Additional Sessions Judge, Exclusive Court, Jhajjar vide order dated 15.6.2018. As such, the petitioners have approached this Court asking for 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.

As far as petitioner/accused Anil Kumar, a younger brother of husband of the complainant is concerned, there are grave and serious allegations of his committing rape upon the complainant. Furthermore, petitioner/accused Sunil Kumar being husband of the complainant is the main culprit for her maltreatment and harassment. Their custodial interrogation is definitely required for complete and effective investigation.

Whereas qua petitioner/accused Shakuntla Devi, the allegations are of general type. There are no specific allegations of harassment and misappropriation of the criminal breach of trust.

Therefore, petitioner/accused Shakuntla Devi, who is an old aged woman can be granted pre arrest bail, whereas it is not so regarding petitioners Sunil Kumar and Anil Kumar.

In case custodial interrogation of the petitioners Sunil Kumar and Anil Kumar 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.

Therefore, the petition qua petitioners **Sunil Kumar and Anil Kumar stands dismissed**. Whereas the same is **allowed qua petitioner Shakuntla Devi** and interim bail granted to her vide order dated 21.6.2018 is made absolute, subject to the following conditions:

- 1) that she shall make herself available for interrogation by a police officer as and when required;
- 2) that she shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer;
- 3) that she shall not leave India without the previous permission of the Court; and
- 4) that she surrender her passport before the Investigating Officer if she has got one otherwise to furnish affidavit in that regard.

21.8.2018  
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**(H.S.MADAAN)**  
**JUDGE**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**