

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

CRM-M-26846-2018

Date of decision:-25.9.2018

Amarjeet Singh @ Amanjeet

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.K.L. Saini, Advocate
for the petitioner.

Ms.Aditi Girdhar, AAG, Haryana.

Mr.Subhash Rana, Advocate for
Mr.S.K. Bishnoi, 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 – Amarjeet Singh @ Amanjeet, an accused in FIR No.00 dated 12.4.2018, under Sections 333, 342, 376(2)n, 506 IPC, registered at Police Station City, Tohana, District Fatehabad.

Briefly stated, the facts of the case, as per prosecution story are that the prosecutrix, resident of village Kanhari, Tehsil Tohana, District Fatehabad had submitted a written complaint at Police Station City, Tohana seeking taking of action against Amarjeet Singh @

Amanjeet (present petitioner) son of Karnail Singh, resident of village Ratta Khera, Tehsil Tohana, District Fatehabad. *Inter alia* in the complaint, she contended that she is an illiterate household lady; that Amarjeet Singh @ Amanjeet was friend of her husband for last many years, as such, he had been coming to their house even in absence of her husband and would talk to her; the complainant came under influence of accused; accused started having physical relations with the complainant and he would have sexual intercourse with her against her wishes giving her threat that if she disclosed the incident to anybody, then he would kill her children; in June, 2017 accused abducted the complainant from her home taking her to Amritsar, keeping her there for 5-7 days threatening that if she did not give statement against her husband and family members before the police and Court, then her two children would be killed; the police arrested the complainant in case FIR No.246 dated 5.7.2017, under Section 346 IPC, Police Station Tohana got registered by Satyawar – husband of the complainant. According to the complainant, she was under threat of the accused, as such she did not say anything incriminating against him in the Court; the accused took her to Gurgaon under threat and confined her in a room for 6-7 months and accused committed rape upon the complainant for 6-7 months at Gurgaon preparing a video stating that if the complainant kept away from him, then he would put the video on internet and make it viral; the accused used to give beatings to the complainant daily and forced her to make physical relations with his other companions; the complainant managed to escape on 10.4.2017 and came to Tohana. She sought taking of action against the accused. On the said

written complaint, 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, Fatehabad vide order dated 19.4.2018. 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. 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 petitioner is innocent and has not committed any offence; that there is delay of more than one year in lodging of the FIR; the prosecutrix is a married lady having two children and she is aged about 29 years; that the petitioner has joined the investigation and no recovery is to be effected from him, therefore, he be granted concession of pre-arrest bail.

Whereas the request is being opposed by the State counsel and counsel appearing for the complainant.

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 grave and serious allegations against the petitioner/accused of abducting a married woman having children and

subjecting her to rape repeatedly.

As regards the contention put forward by learned counsel for the petitioner, the delay in this case is not of much value since the prosecutrix happened to be an illiterate married woman and as has come in her statement, the accused used to threaten her that in case she did not go as per his wishes, then he would kill her children. In sexual offences delay in lodging the FIR is not of much significance unless it is accompanied by a strong motive for false implication. In this case, no such motive comes out to be there.

As regards the complainant being aged about 29 years married woman, having two children, from the perusal of the FIR and other documents, she does not come out to be a consenting party, therefore, the petitioner cannot take advantage of that fact.

As regards the petitioner having joined the investigation, the State counsel stated that though he has done so but did not render full co-operation.

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.

25.9.2018

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No