

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

CRM-M-26694-2017

Date of decision:-30.8.2018

Neeraj

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.J.S. Mehndiratta, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

Mr.Munish Behl, 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 – Neeraj, an accused in FIR No.46 dated 28.3.2017, under Sections 120-B, 328, 376 IPC, registered with Women Police Station, Ambala.

Briefly stated, the facts of the case are that complainant

Mamta wife of Ranbir Singh, resident of village Manakpur near Khera, District Yamuna Nagar, aged about 35 years went to Haridas Medical Store at Dosarka of Neeraj (petitioner) on 2.3.2017 and obtained medicine from him, in that way both of them got acquainted ; that Neeraj started having telephonic talk with Mamta; that on 27.3.2017, Neeraj called on mobile phone of Mamta asking her to come and collect medicine; Mamta started for Dosarka at 3:00 p.m.; she made a telephonic call to Neeraj stating that she could come up to Sadaura only and he should come and deliver medicine there; at Saduara Chowk, the complainant found Neeraj and Bhushan Kumar to be there in a white car; they made her sit in the car on the pretext of getting medicine for her at Dosarka; on the way while the complainant was feeling nausea, Neeraj gave some medicine to her as a result of which, she felt drowsy; Neeraj and Bhushan took her to a house; Bhushan went away and Neeraj had sexual intercourse with the complainant against her wishes; he switched off mobile phone of the complainant; on the next day in the morning, the complainant found herself to be lying naked and similarly Neeraj was also not having any clothes on his body, then both of them after wearing clothes left the house. The complainant informed the police. After registration of the FIR on the basis of statement of complainant, investigation in the case started.

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, Ambala vide order dated 17.7.2018. 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 record and I do not find any merit in the present petition.

Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case with an oblique motive; that the prosecutrix is in the habit of lodging FIRs so as to blackmail rich persons; that the petitioner is ready and willing to join the investigation, therefore pre arrest bail be granted to him.

Whereas the request is being opposed by the State counsel and counsel for the complainant submitting that the allegations against the petitioner are quite serious, which do not warrant grant of pre arrest bail to him.

After hearing the rival contentions of learned counsel for the parties, I find that the allegations against the petitioner are very serious and grave of committing rape upon the prosecutrix. Only during the trial it can be found out whether the petitioner Neeraj is innocent as he claims. Furthermore, as regards the complainant prosecutrix lodging FIRs against several persons then resiling after getting money from them, there is no clear and plausible evidence available in that regard.

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.

30.8.2018

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No