

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

CRM-M-30498-2017

Date of decision:-2.8.2018

Abhishek Yadav

...Petitioner

Versus

State of Haryana and another

...Respondents

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

Present: Mr.Tapan Yadav, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

Mr.Anshuman Dalal, Advocate
for respondent No.2.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Abhishek Yadav, an accused in FIR No.01 dated 2.1.2017, under Sections 498-A, 406, 34 IPC, registered with Police Station PGIMS Rohtak.

Briefly stated, the facts of the case as per prosecution story are that FIR was lodged by complainant Anupriya Jatan daughter of late S.S. Jatan, resident of Rohtak against her husband Abhishek Yadav, father-in-law Jagdish Yadav, mother-in-law Leela Yadav besides sisters-in-law Ritu Yadav and Mitu Yadav contending that she has qualification of B.Tech and MBA and before marriage she was working as Deputy Manager in the State Bank of India, Chandigarh; that she got married with

Abhishek Yadav; that at the asking of accused, the marriage was solemnized in a very costly hotel; that soon after the marriage, she was harassed and maltreated by the accused so as to force her to bring more dowry articles.

The FIR is quite lengthy one where specific instances of the cruelty on the part of accused towards the complainant have been mentioned. According to the complainant, the accused have treated her with cruelty since she could not get their demands of more dowry articles conceded and further the accused have committed criminal breach of trust with regard to the *ISTRIDHAN* articles belonging to the complainant entrusted to them, which were meant for the use of complainant and were to be returned to her when demanded. After some time of the marriage, the spouses had moved to America but in America also harassment and maltreatment of complainant at the hands of her husband continued, who used to raise demand of more dowry.

After registration of the FIR, the investigation in the case got 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, Rohtak vide order dated 17.7.2017. As such, the petitioner has approached this Court asking for the similar relief.

Notice of the petition was given to respondents, who put in appearance through counsel.

I have heard learned counsel for the parties besides going

through the records.

A perusal of the interim orders passed in this case go to show that on 21.8.2017, it was contended on behalf of the petitioner that he seeks to amicably resolve the entire dispute with his wife - the complainant. In view of said request, notice of motion had been issued. However, after going through the interim orders and record, it comes out that the petitioner had sought permission to go to USA in connection with employment, which permission was granted to him. The matter was referred to Lok Adalat but it could not be resolved there and petition was sent back. The efforts for amicable settlement were made in the Court also but the petitioner expressed his inability to pay a sum of Rs.35 lakhs even in installment for settlement of the dispute. Thus, it comes out that certainly the petitioner was not keen to have settlement and offer for settlement was made on his behalf in this Court was just to get a favourable order of interim bail/stay of arrest.

Learned State counsel has submitted that the entire recovery has not been got effected, though the petitioner has joined the investigation but the balance recovery was not got effected by him. He had just got recovered three SAFARI suits. He has not co-operated in the investigation.

Learned counsel for the petitioner has referred to *Anil Rajput and others Versus State of Haryana, 2010(6) RCR(Criminal) 1126, Prit Pal Singh Versus State of Punjab and another, 2014(5) RCR(Criminal) 771, Bhupinder Singh etc. Versus State of Punjab, 2014(2) RCR(Criminal) 109* and *Arnesh Kumar Versus State of Bihar and*

another, 2014(3) RCR(Criminal)527 in support of his contention that merely for the reason that complete recovery has not been got effected, pre-arrest bail cannot be denied to an accused. He further stated that the FIR lodged is an abuse of process of law and the petitioner is a victim of the wrong designs of his wife.

After going through the authorities referred to by learned counsel for the petitioner, I find that the observations had been made keeping in view the facts and circumstances of such cases while deciding question of grant of bail, pre arrest/ regular. The facts and circumstances of each case are to be kept in mind and observations made by a Co-ordinate Bench or the Apex Court while dealing with a question of grant or refusal of grant of bail may not be applicable in other case due to altogether different facts and circumstances. In this case the State counsel has categorically stated that accused had not got effected the entire recovery and has not cooperated with the investigating agency. Therefore, the authorities are not helpful to the petitioner.

Further 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.

Custodial interrogation of the petitioner is definitely required for complete and effective investigation so as to find out the details as to why and under what circumstances, the complainant was harassed, the persons who had instigated the petitioner for doing so, the *ISTRIDHAN* articles in his possession etc. 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.

2.8.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No