

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

CRM-M-33094-2018

Date of decision:-7.9.2018

Manjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.N.S. Dandiwal, Advocate and
Mr.I.S. Dhaliwal, Advocate
for the petitioner.

Mr.Rakeshinder Singh Sidhu, AAG, Punjab.

Mr.Ravinder Singh, 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 – Manjit Singh, an accused in FIR No.101 dated 31.5.2018, under Sections 376, 366-A, 342, 34 IPC and 3/4 of POCSO Act, registered at Police Station Lambi, District Sri Muktsar Sahib.

Briefly stated, facts of the case as per prosecution story are that on 28.5.2018, while the prosecutrix aged about 14 years along with her mother was present at their house in village Bhai Ka Kera, at about 11:00 p.m., Manjit Singh along with accused Baljinder Singh @ Kaku trespassed in the house of prosecutrix by scaling the wall and thereafter

they tied Joginder Kaur mother of the prosecutrix. They caught hold of the prosecutrix, then took her to the fields outside the house and both of them had forcible sexual intercourse with her turn by turn. The prosecutrix/victim became unconscious and then both the accused threw her outside the house and themselves ran away. On regaining consciousness, the prosecutrix/victim came to her house and told her mother regarding the incident. When her father returned home, he was also informed. However, out of fear, they kept quiet. However, on 31.5.2018, the prosecutrix was admitted in Civil Hospital, Malaut. On being informed, police from Police Station, Lambi went to that hospital and recorded statement of prosecutrix. On the basis of that statement, 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, Sri Muktsar Sahib vide order dated 13.7.2018. 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 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.

As regards the contention of learned counsel for the petitioner that there is three days delay in registration of the FIR, which has not been explained, the same is not convincing. In cases of sexual assault, where the reputation and dignity of the entire family is at stake, the elders of the family do get in a fix, as to whether the matter is to be reported to the police or is to be settled at Panchayat level etc., rather than informing the police promptly. Therefore, delay in this case is not of much significance more particularly when there is nothing on record to show that a strong motive for alleged false implication of the accused by the prosecutrix in this case is there.

Another argument put forward on behalf of the petitioner is that on 29.5.2018, the mother of the prosecutrix had submitted an application against the petitioner to Incharge Police Post Bhai Ka Kera, Police Station Lambi in which no allegations of rape had been levelled against the present petitioner and as a matter of fact there was a dispute regarding canal water turn and for that reason, the FIR has been lodged. Again this contention does not make much sense. The mother of the prosecutrix, an illiterate rustic villager not giving the details of the incident in the application submitted by her does not dilute the guilt of the accused. She might have omitted giving the details on account of ignorance or illiteracy and the prosecution story cannot suffer on that count.

As regards there being a dispute between the parties regarding canal water turn, such allegations are not substantiated by any

cogent or convincing documentary evidence and this plea seems to have been taken to provide probable defence and cannot be accepted.

The allegations against the petitioner are very grave and serious inasmuch as he along with his co-accused Baljinder Singh @ Kaku not only trespassed into the house of prosecutrix but tied her mother Joginder Kaur, took the prosecutrix outside her house to the fields and then raped her turn by turn and when she became unconscious leaving her near her house. Such type of sex maniac do not deserve any leniency.

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