

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

CRM-M-34093-2018

Date of decision:-5.9.2018

Rakesh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Karan Singh, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

Mr.G.C. Shahpuri, 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 – Rakesh Kumar, an accused in FIR No.30 dated 6.7.2018 under Section 8 of POCSO Act and 216 IPC, registered at Women Police Station, Yamuna Nagar.

Briefly stated, the facts of the case, as per the prosecution story, are that on 29.12.2017 when the prosecutrix aged about 16 years had gone to her *BARA* from her house at village Dhaurang, District Yamuna Nagar, then Rakesh son of Subhash (present petitioner) resident

of that very village misbehaved with her catching hold of arm of prosecutrix. The prosecutrix narrated the entire story to her parents, then police was informed by moving a written application at Women Police Station, Yamuna Nagar at Jagadhri.

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 (Exclusive Court for Heinous Crimes against Women and Children), Yamuna Nagar at Jagadhri vide order dated 2.8.2018. 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 argued that as a matter of fact on 29.12.2017, the complainant Subhash Chand and his family members had attacked family of petitioner causing injuries to them and on that very day, Smt.Parveena wife of Mahinder Kumar had submitted a complaint to SHO, Police Station Sadar, Yamuna Nagar regarding the incident on which DDR No.7 dated 30.12.2017 was entered in daily diary and the present FIR is just a counter-blast to the complaint dated 29.12.2017 against family members of the complainant.

Whereas, learned State counsel and learned counsel for the

complainant submitted that the incident as per FIR in this case took place on 29.12.2017. Admittedly, no action has been taken on the alleged complaint submitted by Smt.Parveena regarding Subhash Chand and his family allegedly attacking family of the petitioner and causing injuries to them. If the police had found merit in the allegations observing that commission of cognizable offence was disclosed, then FIR would have normally been registered, which was not so done, rather it appears that the DDR in question was lodged to create defence in the present FIR as a pressure tactic and to set up a parallel case.

After hearing the rival contentions of learned counsel for the parties, I find that the incidents of child abuse and molestation of young girls are increasing day by day. It is not safe for the womenfolk to venture out of their houses even. A serious law and order problem in that regard is fast emerging. In case precautionary measures are not taken at the initial stage, the things may get out of hand and would be very difficult to control. The persons harassing molesting and sexually abusing young girls need to be dealt with iron hand and no leniency can be shown to them. Here the allegations against the petitioner are quite serious and grave. 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. 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.

5.9.2018

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(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**