

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

CRM-M-35297-2018(O&M)

Date of decision:-11.9.2018

Amit Kumar

...Petitioner

Versus

State of Haryana

...Respondent

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

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

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Amit Kumar, an accused in FIR No.14 dated 8.4.2018, under Sections 328, 354D, 376, 506 IPC, registered at Police Station Women, Ballabgarh.

Briefly stated, the facts of the case as per prosecution story, are that on 5.9.2017, the complainant/victim (name not being mentioned to conceal her identity and referred to as '*the victim*') wife of Pankaj, aged about 30 years, resident of House No.C-117, Tirkha Colony, Ballabgarh, a housewife had received a call from Amit Kumar son of her maternal aunt

on her mobile phone; that he started abusing her using vulgar language holding out a threat that in case she married somebody else, then he would get the marriage disrupted and would not let the family to lead honourable life; that he kept her calling regularly for 2-3 days using very objectionable and obscene language; that on 18.2.2018, she got married, then Amit called up her husband Pankaj and tried to break the marriage sending vulgar messages on her husband's phone and also on the mobile phone of the complainant; that the accused would harass the complainant and threaten her, that in case she disclosed the matter to somebody else, then he would kill her. On the basis of statement of the complainant/victim, formal FIR was registered.

On registration of formal FIR, 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, Faridabad vide order dated 4.8.2018. 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.

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 been falsely involved; that he had advanced a sum of Rs.5 lakhs to the father of the complainant for purchasing a property jointly, which could not be done and when the petitioner

demanded his money back, then the complainant involved him in this false case.

On the other hand, learned State counsel has contended that the allegations against the petitioner are very grave and serious. The victim had got her statement recorded under Section 164 Cr.P.C. before Judicial Magistrate Ist Class, wherein she stated that while she was alone at home, then petitioner/accused came there; she offered him tea; he asked her to bring some snacks and while she went inside the house, he mixed something in the tea and after consuming it, she became unconscious and when she regained consciousness, she found herself to be naked; petitioner Amit Kumar was also naked and was lying on her, then petitioner told her that he had sexual intercourse with her and had prepared a video film as well as taking snaps; the petitioner accused showed photographs to the complainant threatening her that in case she discussed the matter with anybody, he would post her nude photos on social media; he further told the complainant that he had shared video having nude photographs of complainant with his friends and in that way, he had been blackmailing the complainant.

After hearing the rival contentions of the parties, I find that the contentions raised by the petitioner are difficult to believe. No woman would like to invite stigma on her moral character for such like reasons. The allegations against the petitioner are very grave and serious of raping a married woman, taking her nude photographs and then blackmailing her besides giving threats to eliminate her.

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.

11.9.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No