

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

CRM-M-36537-2018

Date of decision:-14.9.2018

Rati Khan and another

...Petitioners

Versus

State of Haryana

...Respondent

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

Present: Mr.Sumit Jain, Advocate
for the petitioners.

Mr.Neeraj Poswal, AAG, Haryana.

Mr.Aditya Jain, 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 petitioners – Rati Khan and Akhtari, both of them being accused in FIR No.439 dated 7.7.2017, under Sections 304-B/34/406 IPC, registered at Police Station Badshahpur, District Gurugram.

Briefly stated, the facts of the case as per the prosecution story, are that complainant Sarajudeen son of Deen Mohammad, resident of Salambha, District Nuh(Mewat) had submitted a written complaint addressed to SHO Police Station Badshahpur on 7.7.2017 contending

therein that his daughter Tabassum was married with Astaf son of Rati Khan, resident of village Sakatpur, P.S. Badshahpur as per Muslim rites and rituals on 18.3.2013; that at that time, he had spent money beyond his capacity giving costly articles, jewellery and Rs.1,51,000/- in cash, however, Astaf, his father Rati Khan, mother Akhtari, brothers Farooq, Azrudeen and sister-in-law Meena were not happy with such articles given and taunted Tabassum for bringing less dowry; that she used to be harassed, maltreated and beaten up in connection with more dowry items including a Bolero car; she was turned out of matrimonial home and she stayed at her parental home for quite some time, however, she was rehabilitated in the matrimonial home but her maltreatment at the hands of her husband and his family members continued; that Tabassum had given birth to two children, both daughters, aged about 3 years and one year; that her husband and in-laws were annoyed with her for giving birth to daughters and she was beaten up and dragged and turned out of the matrimonial home on 24.6.2017; her husband left her outside her parental village stating that till she would not brought Bolero vehicle, he would not keep her; that the father of Tabassum along with his relatives went to her matrimonial home and tried to counsel the accused not to behave in that manner; that Tabassum returned to matrimonial home; on 6.7.2017 in the evening at 6:08 p.m. when the complainant called from his mobile phone to mobile phone of Astaf, it was picked up by Tabassum, who told that she was being beaten up by mother-in-law, father-in-law, husband, jeth, brother-in-law and sister-in-law, then Astaf snatched the phone and switched that off; subsequently the complainant managed to have a talk

with his daughter, who stated that she had been beaten up and if he wanted to see her alive then demands of accused be fulfilled, otherwise they would kill her; the complainant told Tabassum that he would visit her matrimonial home on the next day, however, on night at 1:00 a.m. elder brother of Astaf informed the complainant telephonically regarding death of Tabassum, therefore, the complainant along with his relatives and villagers went to the house of accused and found that dead body of Tabassum was lying there with injuries on her neck and other body parts. The complainant in his statement stated that his daughter has been murdered by her husband, mother-in-law, father-in-law, brothers-in-law and sister-in-law in the greed of dowry and necessary action be taken. After registration of the FIR, the investigation in the case started.

Apprehending their arrest in this case, the petitioners had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, their such request was declined by learned Additional Sessions Judge, Gurugram vide order dated 9.8.2018. As such, the petitioners have 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.

Both the petitioners/accused are specifically named in the FIR and criminal acts attributed to them i.e. of they along with their co-accused harassing, maltreating, torturing and even beating up Tabassum

deceased in order to compel her to bring more dowry articles. The deceased had died in the matrimonial home where petitioners too had been residing. She had died an unnatural death by hanging on 6.7.2017 i.e. within seven years of her marriage. A young married woman would not have ended her life in such a manner unless, she was compelled to do so. As per the prosecution story the petitioners along with their co-accused had abetted the suicide of deceased by ill-treating her in connection with demand of more dowry. The transcription of the telephonic conversation between the deceased, her mother and father goes to show that petitioners had also been torturing the deceased.

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 petitioners is definitely required for complete and effective investigation. In case custodial interrogation of the petitioners 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.

14.9.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No