

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

CRM-M-36831-2018

Date of decision:-14.9.2018

Kuldeep Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Ravinder Singh Randhawa, Advocate
for the petitioner.

Ms.Samina Dhir, DAG, Punjab.

Mr.Rohan Sharma, 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 – Kuldeep Singh, an accused in FIR No.139 dated 24.7.2018, under Sections 354, 354-A, 354-D, 506 IPC and Section 12 of POCSO Act, 2012, registered with Police Station Sadar, Patiala.

Briefly stated, the facts of the case as per the prosecution story are that the prosecutrix daughter of Des Raj, resident of Punia Khana, a student of 10th class in Government School of Bhunerkerhi had submitted a written complaint addressed to SSP, Punjab Police, Patiala

against Kuldeep Singh (present petitioner) son of Jarnail Singh, Jarnail Singh son of Mihaa Singh, Jagtar Singh son of Mihaa Singh, Karamjeet Kaur daughter of Jagtar Singh, Swaranjeet Kaur wife of Jarnail Singh, all residents of village Punia Khana stating that she used to go to school by public transport; on 15.8.2017 at about 6 O'clock, while she was standing outside the house, a devotional *chowki* of *Guga Madi* in village Nain Kala on the occasion of *Navmi* was there, then Kuldeep Singh came to her and offered to accompany her to the fair of *Guga Madi*; the prosecutrix refused the offer and when she was in the process of going inside her house, then Kuldeep Singh caught hold of prosecutrix from her shoulder and starting pulling her outside forcibly; the prosecutrix starting shouting which attracted her mother Manjit Kaur, who intervened, then Kuldeep Singh started assaulting both of them, as a result of which, the prosecutrix fell down and then Kuldeep Singh ran away. In the written complaint submitted by the prosecutrix, it has been further alleged that in the evening, when father of the prosecutrix returned home, after doing the labour work, then he was informed about the incident; on the next day, father of the prosecutrix could not get leave from work and on 17.8.2017, a musical programme was organized by the villagers in Dharamshala; the prosecutrix along with her mother, brother Bittu and grandmother visited there to watch the programme, where Kuldeep Singh came and started making video film of the prosecutrix with his mobile phone; that when Bittu brother of the prosecutrix stopped him from doing so, then Kuldeep Singh started beating him giving him fist blows and leg blows; after some time when the prosecutrix and her family members reached at home, then

Kuldeep Singh along with the other culprits named in the complaint trespassed in the house of prosecutrix and threatened to kill the occupants; that Karamjit Kaur caught hold of the prosecutrix from her hairs and threw her on the ground and then gave *DAANG* blow to her; that mother and sisters of the prosecutrix came, intervened and then all of them were beaten up with *DAANGS* and legs besides punch blows by the assailants; that on an alarm being raised, the assailants left the spot threatening that they would come again; that on account of the connections of the assailants with the village Sarpanch, no action was taken against them and rather the police started harassing the prosecutrix and her family, who belong to scheduled caste category. After registration of the FIR, the investigation in the case 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 (Exclusive Court for Heinous Crimes Against Women), Patiala vide order dated 18.8.2018. 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 contended that the incident had taken place about a year earlier to the registration of the FIR;

the the matter had been probed by the police and the police found the allegations to be false; that as a matter of fact the brothers of the prosecutrix had beaten up Kuldeep Singh, the matter was reported to the police and as a counter-blast to pressurise Kuldeep Singh, the present FIR has been lodged; that both the parties were challaned under Section 107/151 Cr.P.C. Learned counsel for the petitioner has drawn my attention to report by SHO, Police Station Sadar, Patiala dated 7.10.2017 in that regard.

On the other hand, learned counsel for the complainant has contended that the police had been informed regarding the incident soon after the incident, but under influence of the village Sarpanch, who is thick with the accused party, no action was taken in the matter; that even the local police had dragged its feet in the case; as a matter of fact the report of SHO Police Station Sadar, Patiala dated 7.10.2017 is not as a result of inquiry conducted by SHO himself but it was got done from ASI, a lowly placed officer, the said report was not accepted and SHO of police Station was directed to probe it himself and he did so and vide report dated 27.10.2017 came to the conclusion that Kuldeep Singh, petitioner/accused had been keeping an evil eye upon the prosecutrix and had molested her, as per the allegations levelled by the prosecutrix in her complaint to the police; that DSP(Rural), Patiala has also come to the conclusion finding that offences under Section 354 and 506 IPC were disclosed against Kuldeep Singh, therefore, involvement of Kuldeep Singh in the incident cannot be denied by him.

As per the prosecution story, Kuldeep Singh had made video

film of the prosecutrix with his mobile phone and that mobile phone is required to be recovered from him. As regards the contention that as a counter blast to pressurize Kuldeep Singh, the present FIR has been lodged, I am not impressed by this contention since no woman would normally invite stigma on her moral character by levelling such type of allegations.

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.

14.9.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No