IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-37667-2018
Date of decision:-19.9.2018

Samim Ahmed @ Dammi

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Anmol Rattan Sidhu, Senior Advocate with
Mr.Pratham Sethi, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

Mr.Sarfraj Hussain, Advocate
for the complainant.

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H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Samim Ahmed @ Dammi, an accused in FIR No.312 dated 11.9.2016, under Sections 354-B and 306 IPC, registered with Police Station Hathin, District Palwal.

Briefly stated, the facts of the case as per the prosecution story, are that accused Samim Ahmed @ Dammi had been stalking the victim and molested her, going to the extent of raping her on 10.9.2016 at about 6:00 a.m., while the victim had gone to the fields to answer the call of nature. The incident was witnessed by Sabir son of Jahaj Khan. The father of the victim, who is complainant in this case had gone to the house

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of the accused party for getting his protest registered but he was insulted and abused. The victim consumed poison as a result of her molestation and rape at the hands of accused and committed suicide. The formal FIR in the matter was registered. Earlier the police had forwarded a cancellation report dated 1.8.2017. However, investigation of the case was carried out by Special Investigation Team from State Crime Branch, Faridabad as per the orders passed by ADGP, Haryana, Panchkula. A polygraphy test was got performed upon the accused, then Section 354-B was added as a result of finding for that test and statements of witnesses. Section 306 IPC was also added.

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, Palwal vide order dated 14.8.2018. 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 records and I do not find any merit in the present petition.

Learned counsel for the petitioner has contended that the petitioner is innocent and has not committed any offence; that he is being involved in this case on account of village politics; that as a result of investigation in the matter having been carried out initially, Sub-Inspector Satbir Singh as well as Sh.Abhimanyu, DSP City, Palwal had come to the

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conclusion that the victim had not been raped and she did not commit suicide for that reason; that the police had already conducted polygraphy test upon the petitioner; that the custodial interrogation of the petitioner is not necessary and he be granted concession of pre-arrest bail.

On the other hand, learned State counsel as well as learned counsel for the complainant have vehemently opposed the request.

After hearing the rival contentions of the learned counsel for the parties, I find that a young girl had ended her life by consuming poison. She would not have taken the extreme step without any rhyme or reason. As suggested by the prosecution, the reason was her molestation and rape at the hands of the accused, which is being strongly controverted on behalf of the petitioner. The Special Investigation Team after necessary probe had found sufficient material to challan the accused for the offences under Sections 354-B and 306 IPC. The contention of learned counsel for the petitioner that the petitioner is being framed due to village politics lacks element of merit. The petitioner is specifically named in the FIR and criminal acts have been attributed to him.

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.

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

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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.

19.9.2018 **(H.S.MADAAN)**
Brij **JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

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