

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

CRM-M-40551-2016(O&M)

Date of decision:-6.7.2018

Virender Singh Dabas

...Petitioner

Versus

The State of Haryana and another

...Respondents

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

Present: Mr.Sanjay Rathi, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

Mr.S.S. Mor, Advocate
for the respondent No.2.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Virender Singh Dabas, an accused in FIR No.443 dated 2.9.2016, under Sections 323, 377, 498-A, 406 and 506 IPC, registered with Police Station City, Bahadurgarh.

Briefly stated, the facts of the case are that the FIR in this case was got recorded by the complainant – Latika against her husband Virender Singh Dabas and his other relatives levelling allegations of harassment, torture, cruelty, criminal intimidation perpetrated upon her on account of demand of dowry, criminal breach of trust with respect to dowry articles entrusted to the accused, besides her husband Virender Singh Dabas indulging in unnatural intercourse with her.

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 application was declined by learned Additional Sessions Judge, Jhajjar vide order dated 24.10.2016. 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.

Learned counsel for the petitioner has contended that the FIR is based upon wrong allegations and the same is counter-blast to the petition for custody of minor son of the parties namely Satvik filed by the present petitioner, which is pending in the Family Court, Delhi. He has further contended that this matrimonial dispute between the parties had been referred to Mediation and Conciliation Centre at New Delhi, where both the spouses had agreed to reside together in a peaceful manner; that as a matter of fact the petitioner has never misbehaved with the complainant and has not given any cause for complaint; that the complainant has levelled wrong and false allegations against the petitioner and his family with the sole purpose to extract money from the petitioner; that the petitioner had even filed a petition under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights; that the complainant instead of joining the society of her husband – the present petitioner, has lodged a wrong FIR against him. Learned counsel for the petitioner has

further contended that though the complainant has levelled allegations of unnatural sex against the husband but she refused to undergo the medical examination herself to substantiate those assertions. He has further contended that the petitioner is ready and willing to join the investigation and to render all co-operation, therefore, he be granted concession of anticipatory bail.

On the other hand, learned State counsel assisted by learned counsel for the complainant while countering the submissions of learned counsel for the petitioner has contended that the allegations in the FIR are correct and it was only when the complainant could not bear and tolerate her maltreatment, harassment and torture at the hands of the petitioner and his family members that she took the step of lodging FIR against the petitioner and his family members and there is no question of her doing so much less at the instance of her parents to extract money from the petitioner. It is further contended that all the dowry articles of the complainant are in possession of the petitioner, who has committed criminal breach of trust in respect thereof and his custodial interrogation is necessary to effect the recovery of dowry articles and for effective investigation. As regards the allegations under Section 377 IPC, it is contended that the complainant had got herself medically examined on 10.12.2016 and as per opinion given by the examining doctor in the MLR, the possibility of unnatural sexual assault could not be ruled out. A prayer for the dismissal of the petition has been made.

After considering the rival contentions and going through the record, I find that there there is no merit in the petition. 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. There are allegations of petitioner having committed criminal breach of trust with regard to *ISTRIDHAN* articles of the complainant. Though such allegations are denied by the petitioner stating that he is not in possession of any such articles but then this denial is not of much value. There are serious allegations of petitioner committing unnatural sex with his wife – the complainant against her wishes.

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.

6.7.2018
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No