

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

CRM-M-48915-2017

Date of decision:-27.9.2018

Saurabh Jain

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.A.S. Narang, 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 – Saurabh Jain, an accused in FIR No.0950 dated 3.9.2017, under Sections 67(A) of Information Technology Act and Sections 354-D and 509 IPC (both the offences under IPC added later on), registered with Police Station City, Panipat.

Briefly stated, the facts of the case, as per the prosecution story are that FIR in question was recorded on the basis of written complaint submitted by complainant (name withheld to protect her identity in view of Section 228-A IPC and as per the directions given by

the Hon'ble Apex Court in case titled State of Karnataka Vs. Puttaraja, 2004(1) RCR(Cri.) Supreme Court, 113 (SC) and referred to as '*the prosecutrix*'), which she submitted at Police Station City, Panipat contending therein that in April, 2017 when she had gone to Rajahat Bilojio Building, Kolkata in search of a job, she came across accused Saurabh Jain; that on returning to Panipat, she came to know that Saurabh Jain has created ID on Facebook and Instagram in her name, where he was uploading her indecent photographs and sending indecent messages to spoil her reputation and that of her family; that he was threatening to kill the prosecutrix and had made phone calls to her besides sending Whatsapp messages, as such necessary legal action be taken.

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 Sessions Judge, Panipat vide order dated 10.11.2017. As such, the petitioner has approached this Court asking for the 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 and I do not find any merit in the present petition.

The allegations against the petitioner are very grave and serious, which warrant his custodial interrogation to find out as to in what manner and under what circumstances he had created false I.D. on Facebook and Instagram in the name of complainant putting her indecent photographs and sending indecent messages. The recovery of necessary

equipment in that regard is also to be effected from him.

As regards the submissions made by learned counsel for the petitioner that there had been friendly relations between the complainant and petitioner/accused, the latter working as a jeweller at Kolkata and both of them had planned to expand the business and they had visited several places together, during the course of which, they stayed together in various hotels, subsequently a quarrel took place between them over a minor issue, as such, she has lodged a false FIR; these contentions may prove to be good explanation in the case during investigation but do not have much relevance for the purpose of considering the aspect of grant/refusal of bail. As regards the transcription of the conversation alleged to be between the complainant and some other girl Hina Sheikh, the authenticity is yet to be established and petitioner cannot take advantage of the same.

According to learned State counsel though the petitioner has joined the investigation but he has not come out with complete information within his knowledge and has not got the recovery of phone in question effected.

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.

27.9.2018

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No