

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 5291 of 2018 (O&M)
Date of decision : 23.7.2018

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Sumit @ Sunny and another

.....Petitioners

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Argued by: Mr. Shivam Grover, Advocate for
Mr. Ivan Singh Khosa, Advocate for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

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H. S. Madaan, J.

This petition for pre-arrest bail has been filed by petitioners Sumit @ Sunni and Akshay @ Hunny, both of them being accused in FIR No. 45, dated 15.1.2018 for offences under Sections 323, 354 B, 506, 34 IPC, registered at Police Station City Sonipat.

Briefly stated, facts of the case as per the prosecution story are that on 14.1.2018, when complainant Ravi alongwith his wife Sangeeta were going in the public street, then his neighbours

Sunny and Hunny, started hurling filthy abuses upon them and they molested Sangeeta by tearing her clothes and misbehaving with her. When Ravi tried to intervene, then he was given stick blows by Sunny and Hunny, in addition to that Hunny gave slap and fist blows on the mouth of the complainant. On an alarm being raised by Sangeeta, when the neighbours came, then both the assailants ran away from the spot.

Formal FIR was recorded on the basis of statement of Ravi, who was admitted in Tulip Hospital.

Apprehending their arrest, petitioners had filed a petition for grant of pre-arrest bail before the Court of Sessions, which was assigned to Additional Sessions Judge, Sonipat, who vide order dated 25.1.2018, dismissed the same. As such, feeling aggrieved, they have approached this Court, asking for similar relief. However, the State and complainant are resisting this request.

I have heard learned counsel for the petitioners, learned State counsel, learned counsel for the complainant, besides going through the record.

Learned counsel for the petitioners has stated that there is counter version of the incident, in as much as, house of the petitioner is on the backside of the house of the complainant. The complainant runs a business of making soya cottage cheese, using some machines at his residence. He has been stealing electricity for the said purpose. One Kalu Ram @ Virender has also been indulging in theft of electricity. On 14.1.2018, neighbours asked Kalu Ram @ Virender not to operate the deck (music system), as it was making a

lot of noise, but to no effect. Then father of present petitioners went and cut the temporary connection illegally installed by the complainant and said Kalu Ram @ Virender and then complainant and his wife came and started arguing with father of the petitioners and the petitioners. The complainant brought a stick from his house and aimed a blow at the head of petitioner No.2 Akshay, who tried to ward off the blow using his hand and his hand was fractured in the process. The complainant then hit petitioner No.2 on his right knee. When father of the petitioners tried to intervene, the complainant pushed father of the petitioners aside and caught hold of petitioner No.2 by the scruff of the neck and threw him on the ground. At the same time, petitioner No.1 was hit by a brick on the face by the wife of the complainant and thereafter, pushed to the ground by her. The neighbours intervened and rescued the petitioners. Father of the petitioners had informed the police and provided MLR of the petitioners but FIR was not registered. Rather they have been wrongly involved in this case. According to counsel for the petitioners, petitioners are ready and willing to join the investigation and cooperate therewith.

On the other hand, learned State counsel, as well as, counsel for the complainant have submitted that though petitioners have joined investigation as per order of this Court but have not cooperated in the investigation and they are not coming with full facts within their knowledge. Their custodial interrogation is required for investigation of the case.

After hearing the rival contentions, I find that the

allegations against the petitioners are very serious of molesting a woman, giving her beatings, besides assaulting her husband. Their custodial interrogation is necessary for complete and effective investigation. If the same is denied to the Investigation Agency, then the same would leave many loose ends and loop holes, which is uncalled for. Though it is stated that there is a counter version of the incident, but then the FIR lodged by the complainant in this case is prior in time, the MLR of Ravi goes to show that he had arrived at the hospital on 14.1.2018 at 7.22 P.M., whereas as per MLR of Akshay he had arrived at the hospital at 9.03 P.M. about 2 hours later. Similar is the time of arrival of Sumit. As per own case of the petitioners, regarding their version, no FIR had been registered even till filing of the petition before this Court, which is on 5.2.2018.

It is well settled that custodial interrogation is more elicitation oriented since a person who is couched in comparative safety of pre-arrest bail, would certainly not disclose all the facts within his knowledge, which would be inculpatory for him. 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. As observed in authority *State represented by the CBI vs. Anil Sharma, 1997 (4) RCR (Criminal) 268,* custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected

person is of tremendous advantage in getting useful information.

No ground for grant of pre-arrest bail is made out.

The petition being without any merit stands dismissed.

23.7.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No