

CRM-M-543-2018;

CRM-M-2281-2018; and

CRM-M-37061-2018

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

1. CRM-M-543-2018

Pooja

..... Petitioner

Versus

State of Haryana

..... Respondent

2. CRM-M-2281-2018

Rambir

..... Petitioner

Versus

State of Haryana

..... Respondent

3. CRM-M-37061-2018

Balwant

..... Petitioner

Versus

State of Haryana

..... Respondent

Date of decision :6.10.2018

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

Present : Mr.Jagdish Manchanda, Advocate
for the petitioner(s) in **CRM-M-543-2018** and
CRM-M-2281-2018.

Mr.Deepender Singh, Advocate
for the petitioner in **CRM-M-37061-2018.**

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Mr.Gaurav Bansal, AAG, Haryana.

Mr.Viresh B. Saharya, Advocate and
Mr.Sanjeev Sharma, Advocate
for the complainant.

H.S. MADAAN, J.

Vide this order, I shall dispose of three petitions, one for grant of pre-arrest bail i.e. **CRM-M-543-2018** filed by petitioner Pooja and other two petitions for regular bail i.e. **CRM-M-2281-2018** filed by petitioner Rambir and **CRM-M-37061-2018** filed by petitioner Balwant, all of them being accused in FIR No.636 dated 11.8.2017, under Sections 326-A, 195-A, 120-B, 34, 201, 341, 506 IPC, registered with Police Station Camp, Palwal, District Palwal.

Briefly stated, the criminal machinery in this case had been set into motion by Pooja daughter of Rambir, resident of 4 Civil Line near Shiv Mandir, Palwal, Police Station Palwal, aged about 27 years, who in the statement got recorded by her with the police of Police Station Camp, Palwal on 11.8.2017 stated that she had passed CS.M.COM, LLB; that she had got married with Amit son of Satish Sharma, resident of Suraj Apartment, Pul Prehladpur, Police Station Pul Prehladpur, Delhi; that as she had strained relations with her in-laws, her mother-in-law Kamlesh and brother-in-law Mannu moved to Palwal leaving her in Delhi; that she had filed a petition for maintenance against her husband, which was pending in the Court of Judicial Magistrate Ist Class, Palwal and was fixed for 11.8.2017; that on that day, she along with her mother Santosh and father

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Rambir had gone to attend the date of hearing; that her brother-in-law Mannu, mother-in-law Kamlesh and mother-in-law's sister's son Satish along with two other unknown persons had also come from other side; that at about 10:30/10:45 a.m., after the proceedings were over, the parents of the complainant started talking with their lawyer, whereas the complainant started her journey to return home on her Scooty Marka Activa and when she had reached Dholagarh and time was around 11/11:15, a car white in colour came from behind; that it was having five occupants including her brother-in-law Mannu, mother-in-law Kamlesh, mother-in-law's sister's son Satish; that the car was brought parallel to Scooty of the complainant and those occupants said that she be paid maintenance allowance; that Mannu took out a dish like box and threw acid on the complainant; that some drops thereof touched face of complainant on right side, on right hand and on the waist, hips etc; that the clothes covering those portions got burnt; that the body of the complainant also started burning; that she parked her vehicle on right side and fell down screaming; that she was rescued by Balwant Singh son of Lal Chand, who lifted her, made her sit on his motorcycle, took her to Government Hospital, Palwal. Formal FIR was registered. After registration of the FIR, the matter was investigated. Mannu and Kamlesh were arrested in this case. However, no acid etc. could be recovered from their possession. CCTV footage of Court Complex, Palwal and nearby places was examined. The plea of alibi of those persons was accepted and it was found to a case of false implication and fabrication of the evidence by the complainant Pooja in connivance with her father Rambir and Balwant. Accused Rambir and

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Balwant were arrested in this case.

Apprehending her arrest in this case, the petitioner Pooja had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application and her father Rambir and Balwant, who had been arrested in this case had filed a petition for regular bail in the Court of Sessions, however, their such requests were declined by learned Additional Sessions Judge, Palwal. As such, the petitioners have approached this Court asking for similar relief.

Notice of the petitions was given to the respondent – State, which put in appearance through State counsel. The complainant has also appeared through counsel.

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

Taking up petition **CRM-M-543-2018** for pre arrest bail filed by petitioner – Pooja, learned counsel for the petitioner has contended that basically there has been a matrimonial dispute between Pooja and Amit Sharma and the present case has arisen out of such dispute; that petitioner Pooja is innocent, rather is a victim and she has been wrongly involved in this case; that she has since joined the investigation, in that way her custodial interrogation is not required, therefore, she be granted pre-arrest bail.

Whereas, this request is being opposed tooth and nail by learned counsel for the complainant stating that she played a key role in fabricating an incident so as to involve her in-laws family in a false case.

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Furthermore, she has several other criminal cases registered against her; the alleged culprits in so called acid attack had been arrested and remained in custody for 49 days and one of them namely Mannu Sharma aged 26 years, a law student had expired due to custodial torture, humiliation and mental torture on 21.12.2017, therefore, she does not deserve concession of pre-arrest bail.

After hearing the rival contentions, I find that no case for grant of pre-arrest bail to petitioner Pooja is made out keeping in view the seriousness of allegations against her.

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 like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Custodial interrogation of the petitioner Pooja is definitely required for complete and effective investigation so as to find out as to how the incident was planned and executed. In case custodial interrogation of the petitioner Pooja is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being

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carried out adversely which is not called for.

Thus finding no merit in the petition bearing No.CRM-M-543-2018 filed by petitioner Pooja, the same stands dismissed.

As regards CRM-M-2281-2018 filed by petitioner Rambir and CRM-M-37061-2018 filed by petitioner Balwant are concerned, they are behind bars since long. One of their co-accused has since been granted bail. Petitioner Rambir is stated to be aged person as well as Ex-Serviceman. The guilt of both the accused shall be determined during the trial.

Learned counsel for the complainant has vehemently opposed grant of bail to them submitting that allegations against them are very serious, which do not warrant grant of concession of regular bail to them. He has referred to citations Virupakshappa Gouda and another Versus State of Karnataka and another, (2017) 5 Supreme Court Cases 406, Prasanta Kumar Sarkar Versus Ashis Chatterjee and another, (2010) 14 Supreme Court Cases 496. But I find that further detention of petitioners Rambir and Balwant is not called for and they deserve to be granted regular bail though stringent terms and conditions can be put to ensure that they do not abscond and tried to tamper the prosecution evidence.

Under the circumstances, I find it proper and appropriate if concession of regular bail is granted to the petitioners Rambir and Balwant.

Accordingly, CRM-M-2281-2018 filed by petitioner Rambir and CRM-M-37061-2018 filed by petitioner Balwant are allowed. The petitioners namely Rambir and Balwant are ordered to be released on bail during the pendency of the trial, subject to their furnishing bail bonds and

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surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Palwal, on following conditions:

- (i) they shall appear in the Court on each and every date of hearing.
- (ii) they shall not give any threat or intimidation to the prosecution witnesses.
- (iii) they shall not leave India without prior permission of the Court.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioners Rambir and Balwant do not abscond and interfere in the trial.

The petitioners-accused Rambir and Balwant are also directed to surrender their passports if they have got ones otherwise to furnish affidavits in that regard. In case the petitioners Rambir and Balwant violate any term and condition on which the bail has been granted to them, the prosecution would be entitled to apply for cancellation of bail.

As regards the in-laws family members of Pooja named as culprits in the alleged acid attack on her, having wrongly remained behind bars for 49 days and death of Mannu Sharma, due to alleged torture, the complainant can certainly take recourse to law for redressal of their grievances.

It is made clear that if the petitioners are found to be involved in any criminal act at any stage after being released on bail, the order granting them bail would be liable to be withdrawn.

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It is clarified here that nothing discussed above be taken as any opinion on the merits of the case.

6.10.2018
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(H.S. MADAAN)
JUDGE

- 1. Whether reportable? **No**
- 2. Whether speaking / reasoned? **Yes**