

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

CRM-M-2456-2021

Date of decision:-19.1.2021

Ajay

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Kamal Mor, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Ajay, aged 45 years, resident of 240 Rani Khera, Mundka, West Delhi, an accused in FIR No.298 dated 13.8.2020, under Sections 323, 365, 379, 34 and 506 IPC, registered with Police Station IMT, Rohtak.

Briefly stated, the prosecution story is that on 15.7.2020 at 7:30 p.m., on receipt of telephonic message from Sumit son of Rohtash Gulia on mobile phone of Parvesh son of Sanjay, complainant Akash son of Uday Parkash, resident of village Kharawar, District Rohtak went to

Romal Prantha Junction at Delhi bye-pass. He reached there at about 8:00 p.m. and found that Sumit son of Rohtash was quarrelling with some shopkeeper. The complainant intervened. As such Sumit started quarrelling with the complainant. Ultimately, Sumit went away. The complainant started going towards his house on foot. When he had reached near Taliyar lake, then a Santro car coming from behind suddenly came to halt near the complainant. Sumit son of Rohtash, Ajay son of Sunil along with 2-3 other boys were sitting in that car. Sumit hit the complainant on head with a bottle and occupants of the car bundled the complainant in the car forcibly. They gagged his mouth and took him to a place, where three persons were already there. They gave beatings to the complainant with wooden sticks and injected something in his body, stealing his purse containing Rs.1,200/-, driving licence and Aadhar card. The complainant became unconscious. When he regained consciousness, then Sumit threatened to kill him. However, someone there stopped him from doing so. The complainant was taken towards IMT side, where an attempt was made to kill him by driving the car on his feet and by strangulating him. Thereafter, the culprits ran away leaving the complainant there. The complainant became unconscious. He had been taken to hospital. On information being given to the police, police went to PGI, Rohtak, where the complainant/injured was admitted due to head injury and recorded his statement, which formed basis for registration of formal FIR. Investigation in the case started.

Apprehending his arrest in this case, the present petitioner had approached the Court of Sessions seeking grant of pre-arrest bail by

filing an application, which was assigned to learned Additional Sessions Judge, Rohtak. However, his such request was declined by learned Additional Sessions Judge, Rohtak vide order dated 29.10.2020. As such, the present petitioner has approached this Court by way of filing the instant petition asking for the similar relief.

Notice of the petition was issued to respondent – State. Mr. Tanuj Sharma, AAG, Haryana has appeared on behalf of respondent – State and accepts notice on its behalf. He opposes the petition.

I have heard learned counsel for the parties besides going through the records and I find that no case is made out to grant pre-arrest bail to the petitioner.

The allegations against the petitioner are grave and serious that he was driving the Santro car in which the complainant had been kidnapped and he was active participant in the whole episode. Though not named in the FIR, the name of the petitioner is said to have cropped up during interrogation of co-accused Sumit. Such disclosure statement of co-accused can certainly be taken into consideration for providing lead in investigation and even during trial it is admissible under Section 30 of the Indian Evidence Act.

As noticed by learned Additional Sessions Judge, Rohtak when the petitioner was granted interim bail with a direction to join the investigation, as informed by the Public Prosecutor, he had not shown any effective and meaningful co-operation and he had not disclosed whereabouts of the car in which the complainant had been kidnapped. Therefore, the custodial interrogation of the petitioner is necessary. There

is no question of taking different view in that regard. Keeping in view the gravity and seriousness of allegations against the petitioner, the necessity of custodial interrogation for complete and effective investigation and to effect recovery of Santro car used in the incident, no case for grant of pre-arrest bail to the petitioner is made out.

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 is definitely required to find out as to how the incident was planned and executed, the persons, who had actually participated in the incident and motive for kidnapping of the complainant and giving injuries to him. The Santro car is also to be got recovered from the petitioner. 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 the petition is doomed for failure and is dismissed accordingly.

19.1.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No