

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

CRM-M-6133-2021(O&M)

Date of decision:-4.3.2021

Baljeet Singh @ Nikka

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Jasdeep Singh, Advocate
for the petitioner.

Mr.J.S. Ghuman, DAG, Punjab.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Baljeet Singh @ Nikka aged about 25 years, resident of village Daggo Ramana, Tehsil and District Faridkot, an accused in FIR No.440 dated 7.12.2020 for the offences under Sections 376 IPC and 4 of POCSO Act, registered with Police Station City, Faridkot.

In nutshell, the prosecution story is that the prosecutrix (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*) had addressed a written complaint to SSP, Faridkot wherein she alleged that about 4-5 years earlier when she was aged about 16 years, she and Baljeet Singh @ Nikka (present

petitioner) used to go to the house of Gurpreet Kaur and Baljeet Singh @ Nikka committed rape with her by giving false allurements of marriage as well as holding out threats; she had submitted a complaint against him in the SSP Office on 1.7.2020 and an inquiry was conducted by Women Cell, Faridkot, however, no action was taken in the matter. As such, she had submitted another complaint to SSP, Faridkot. On receipt of the complaint, the matter was examined and formal FIR in the matter was recorded.

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. However, his such application was declined by learned Sessions Judge, Faridkot vide detailed order dated 1.2.2021. 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.J.S. Ghuman, DAG, Punjab appearing on behalf of respondent – State is opposing the petition.

I have heard learned counsel for the parties besides going through the records.

It is specific case of the prosecution that accused had committed rape upon the prosecutrix while she was still a minor by giving her allurement of marriage and by threatening her. This is a very grave and serious act on his part.

Though learned counsel for the petitioner has tried to put forward various arguments contending that the allegations in the FIR are

wrong; the petitioner had never visited the village of complainant, which fact is supported by mobile locations of the petitioner; it is a case of one side love in which the petitioner was never the consenting party; Gurpreet Kaur in whose house the prosecutrix is alleged to have met the petitioner/accused has given statement to the police that both of them never met in her house and rather prosecutrix used to talk on phone with the petitioner/accused, as such the petitioner deserves to be granted pre-arrest bail.

Whereas, learned State counsel has opposed the request submitting that in view of the facts and circumstances of the case, the discretionary equitable relief of pre-arrest bail should not be allowed to the petitioner.

After hearing the rival contentions, I find that keeping in view the gravity and seriousness of allegations levelled by the prosecutrix/victim against the present petitioner, his custodial interrogation is essential 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 regards the contentions made by learned counsel for the petitioner/accused discussed above, those touch the merits of the case, which can be taken into consideration by the trial Court while determining the guilt of the accused but at this stage while ascertaining as to whether petitioner is entitled to discretionary equitable relief of pre-arrest bail, the

merits of the case are not required to be dealt with in depth. The relevant considerations for grant of anticipatory bail are quite distinct and different from the factors, which are to be considered to see whether the accused in a criminal trial is guilty or not. While deciding petitions for pre-arrest bail, the Court is required to keep in view the gravity of the offence, the requirement of custodial interrogation of the suspect; the control which can be exercised over the accused, if he is granted pre-arrest bail, chances of such accused absconding or tampering with the prosecution evidence by giving threats or inducement to the prosecution witnesses etc. Considering all these facts, I conclude that no ground 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.

Finding no merits in the petition, the same stands dismissed accordingly.

4.3.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No