

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

CRM-M-8882-2021 (O&M)

Date of decision: 25.02.2021

Atinderpal Pal Singh @ Atinderpal Singh

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. PKS Phoolka, Advocate for the petitioner.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition for pre-arrest bail has been filed by petitioner Atinderpal Pal Singh @ Atinderpal Singh, an accused in FIR No.255 dated 26.11.2020, for offences under Sections 376 and 506 IPC, registered with Police Station Canal Colony, District Bathinda.

Notice of motion.

Mr. J.S. Ghuman, DAG, Punjab, accepts notice on behalf of the respondent-State.

In nutshell, the prosecution story is that, complainant/prosecutrix (name withheld to conceal her identity), aged about 28 years, a resident of Bathinda, was married with one Mandeep Singh about 10 years earlier and she gave birth to two children from

that wedlock, however, she divorced her said husband in the year 2017 and contracted second marriage with one Chamandeep Singh of Khanna on 03.06.2019; unfortunately, she developed dispute with her second husband also and started living with her parents at Bathinda; petitioner Atinderpal Singh had been supplying milk to parental family of the complainant/prosecutrix, as such, he developed friendship with the complainant/prosecutrix; on 15.04.2020, while the complainant/prosecutrix was alone at home, then petitioner/accused came there and had sexual intercourse with her against wishes of complainant/prosecutrix and without her consent and while leaving the place, threatened the complainant/prosecutrix that if she told to anybody then he would kill her and her family members; accordingly, complainant/prosecutrix did not disclose the incident to anybody; subsequently, the petitioner-accused started moving articles from the parental house of complainant/prosecutrix to a rented house of Jassi at Partap Nagar Main Road and he made physical relations with complainant/prosecutrix several times at that place; petitioner/accused had represented himself to be a unmarried person, however, subsequently it came out that he was married having a daughter; the complainant/prosecutrix had conceived from loins of petitioner/accused and asked him to marry her but to no effect; therefore, she had lodged a complaint with the police.

Apprehending his arrest in this case, petitioner/accused had

approached the Courts of Sessions at Bathinda by moving an application for grant of pre-arrest bail. His such application was assigned to Addl. Sessions Judge, Bathinda, who vide order dated 04.01.2021, dismissed the same. Feeling aggrieved, the petitioner has approached this Court, craving for grant of similar relief, which request is being opposed by the State counsel.

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

The allegations against the petitioner are very grave and serious of having sexual intercourse with the complainant/prosecutrix without her consent and against her wishes on several occasions, though, promising to marry her without willing to do so, inasmuch as he was already married, having a daughter. Such act and conduct on the part of the petitioner needs to be dealt with all the seriousness and in a firm manner. Custodial interrogation of the petitioner is definitely required to unfold the complete story and for effective and proper investigation and in case, it is denied to the investigating agency that shall leave many gaps, loopholes and lacuna, adversely affecting the investigation, which is uncalled for.

Although, learned counsel for the petitioner has raised various pleas like there being delay of about 07 months in lodging the FIR and no medical evidence being there and further the complainant/prosecutrix being aware of the fact that the petitioner was

already married, having a daughter, therefore, her contention that petitioner had promised to marry her becoming false etc., but I find that such type of pleas are not helpful to the petitioner at this stage, when the question to be determined is whether the accused is entitled to grant of discretionary equitable relief of anticipatory bail or not. The contentions put-forward by learned counsel for the petitioner mentioned above touch the merits of the case, which may have relevance during the trial while determining the guilt of the accused but not at this stage. The factors which are to be taken into consideration while determining entitlement of the petitioner/accused are quite different than the factors which are to be taken into view while determining the guilt of an accused and deciding the present petition for pre-arrest bail. The Court is to basically consider the prosecution version, the seriousness and gravity of the allegations, the requirement of custodial interrogation of the accused, the chances of petitioner/accused tampering with the prosecution evidence, if granted pre-arrest bail, the chances of petitioner absconding and delaying the trial, the type of control, the Court can exercise to ensure that the petitioner appears during the investigation and trial regularly. In this case, considering all the facts and circumstances including the gravity and seriousness of allegations, the necessity of custodial interrogation to unfold the complete story and the fact that in case the petitioner is granted anticipatory bail, there are fair chances of his trying to tamper

with the prosecution evidence by giving threat or inducement to the complainant/prosecutrix and other material witnesses, no case for grant of pre-arrest bail to the petitioner is made out. The petition is found to be without any merit and is dismissed accordingly.

25.02.2021

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No