

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

CRM-M-9519-2021

Date of decision:-1.3.2021

Suhail Ahmad

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.B.K. Bali, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana.

Mr.Gaurav Gupta, Advocate
for the complainant.

H.S. MADAAN, J.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Suhail Ahmad, aged about 32 years, resident of House No.91(92), Maqbara Diggi, Meerut, UP, an accused in FIR No.88 dated 16.2.2020, under Sections 34, 376, 377, 406, 498-A, 506 IPC, registered with Police Station Dabua, District Faridabad.

Briefly stated, the facts of the case as per the prosecution story are that the criminal machinery in this case was set into motion by

complainant – Tayyaba wife of Zubair Ahmed, daughter of Irfan, resident of House No.C-166, Dabua Colony, NIT, Faridabad, who in the written complaint submitted by her to the police narrated that she was married with Zubair Ahmed on 24.3.2018 as per Muslim rites; though her family had given handsome dowry to her but her husband, mother-in-law, father-in-law, husband's elder brother and sister-in-law were not happy with the dowry brought by the complainant and they started taunting her for bringing insufficient dowry; demands for more dowry articles were raised by them, which complainant could not get fulfilled, as such, she was harassed, maltreated and beaten up by her husband at the instance of his brother; the husband of the complainant used to have unnatural sex with her against her consent; subsequently the complainant along with her husband got separated from the family of in-laws of complainant; in the new accommodation, elder brother of husband of the complainant Suhail Ahmad (present petitioner) also used to reside; on 30.10.2019, petitioner Suhail Ahmad forcibly entered room of complainant while her husband was away and committed rape on her and while leaving he threatened the complainant that if she disclosed that fact to anybody then he would kill her parents; the complainant accordingly informed her husband but he along with his parents including the present petitioner, rather beat up the complainant and threatened her; the complainant was turned out of the matrimonial home. On such complaint moved by the complainant, formal FIR was registered and investigation in the matter 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, Fast Tract Court, Faridabad. However, his such request was declined by learned Additional Sessions Judge, Fast Tract Court, Faridabad vide detailed order dated 13.1.2021. 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. Tanuj Sharma, AAG, Haryana has appeared on behalf of respondent – State and accepts notice on its behalf. Mr. Gaurav Gupta, Advocate has also appeared for the complainant. They oppose the petition.

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

There are grave and serious allegations against the petitioner that he being elder brother of husband of the complainant having deserted his own wife, had forcible sex to intercourse with the complainant while her husband was away and when the complainant disclosed that fact to her husband, he instead of showing sympathetic attitude to the complainant, along with his parents and the present petitioner, beat her up and turned her out of the matrimonial home. Such type of person does not deserve discretionary equitable relief of pre-arrest bail, which 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 arrest and custodial interrogation.

Though learned counsel for the petitioner has argued that the version given by the complainant does not inspire confidence and wrong

allegations had been levelled but the guilt of the accused shall be determined during the trial and this Court is not to carry out any such exercise in that regard. The only concern of this Court is to see as to whether a case for grant of pre-arrest bail tot he petitioner is made out or not.

Furthermore, the custodial interrogation of the petitioner/accused 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.

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.

1.3.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No