

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

202

CRM-M-37775-2020.

Date of Decision: 06.01.2021.

Hasamdeen

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Talim Hussain, Advocate for petitioner.

Mr. Vikrant Pamboo, Deputy Advocate General, Haryana.

Mr. Mazlish Khan, Advocate for the complainant.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. is for grant of pre-arrest bail to petitioner in case FIR No.264 dated 23.11.2019 under Sections 323, 328, 342, 498-A and 506 IPC read with Section 34 IPC, registered at Police Station Nagina, District Nuh (Mewat).

Learned counsel for the petitioner *inter alia* contends that the allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further urges that petitioner was married to complainant-Tahira in the year 2011 but she was not on visiting terms for the last four years. He further urges that petitioner had made every effort for restitution of conjugal rights but on account of denial at the instance of complainant-Tahira, petitioner had solemnized marriage with Rubina, which led to strained relations between them. He further urges that previously in

the instant case FIR, petitioner was arrested and later on granted bail, vide order dated 23.08.2020 by the Area Magistrate. He further urges that after having received report from RFSL, Bhondsi, offence under Section 328 IPC has been added and now petitioner is apprehending threat of arrest in respect of said offence as well. He further urges that Irfan and Khalid, who allegedly participated in administering poison to victim, have already been exonerated by the police. He further urges that co-accused namely Jubeda and Kallu have already been extended concession of interim pre-arrest bail by this Court, vide order dated 30.10.2020 passed in CRM-M-31256-2020. He further urges that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

On the other hand, learned State counsel assisted by learned counsel for the complainant while opposing the cause of petitioner has vehemently argued that marriage between complainant-Tahira and petitioner was solemnized on 20.05.2011 and despite the fact that sufficient dowry was given at the time of marriage, petitioner was not satisfied and he used to subject complainant-wife to cruelty for more dowry and further gave beatings to her. He further urges that though several efforts were made at the instance of parents of complainant to reconcile the matter but to no avail and meanwhile petitioner solemnized second marriage with Rubina and further exerted pressure upon the complainant so that she may leave her matrimonial home. He further urges that on 19.11.2019, petitioner alongwith co-accused gave severe beatings to complainant and then on the pretext of extending medical assistance to her, she was asked to accompany

the petitioner and on the way she was offered cold drinks and after consuming the same she became unconscious. He further urges that complainant was medico-legally examined and as many as five injuries on her person were detected and further parcel pertaining to complainant given by the examining doctor was sent to RFSL, Bhondsi, wherein vide RFSL report dated 08.09.2020, "Aluminium Phosphide" was detected in Ex.1 (parcel) and, thus, offence under Section 328 IPC was added. He further urges that in view of nature of offence committed by petitioner, his custodial interrogation is required to reveal the truth having his involvement in the commission of offence under Section 328 IPC and as such he is not entitled for the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the contents of petition as well as reply furnished at the instance of respondent-State.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner subjected the complainant to cruelty on account of dowry and further in order to get rid of her administered stupefying substance to her. Pre-arrest bail to an accused should be granted in exceptional circumstances as a person couched in comparative safety of the pre-arrest bail would certainly not disclose all the facts within his knowledge. In a given situation, custodial interrogation of petitioner is certainly required for complete and effective investigation. In case, same is denied to the Investigating Agency that shall leave many glaring loopholes and gaps, adversely affecting investigation, which is uncalled for. Keeping in view totality of entire scenario and nature of offence, no extra-ordinary ground has been made out

in favour of petitioner for his entitlement of pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

06.01.2021

jitender

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No