

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

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CRM-M-460-2022.

Date of Decision: 24.01.2022.

Rahul @ Rahul Singh

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Parveen Sharma, Advocate for petitioner.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been moved by petitioner-**Rahul @ Rahul Singh** in case FIR No.510 dated 29.08.2021 under Section 307 IPC read with Section 34 IPC (Sections 302 and 316 IPC added lateron), registered at Police Station Kundli, District Sonipat.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are totally concocted, false and frivolous and there is no iota of truth therein. He further urges that as per FIR version, allegedly on 29.08.2021 at about 1:00 AM (midnight) petitioner on instigated by his mother poured oil upon his wife-Pragati (since deceased) with an intention to kill and set her ablaze, whereas petitioner has no nexus whatsoever with the alleged offence. He further submits that in case Pragati (since deceased) was being harassed by the petitioner for some time, she could have made a complaint to the authorities concerned and having failed to do so, it leads to clear inference that she was never harassed. He further

married life with victim (since deceased) but he was unaware of illicit relations of victim (since deceased) with her neighbour namely Vijay @ Guddu. He further submits that on the fateful day (29.08.2021), when petitioner found victim (since deceased) with Vijay @ Guddu in objectionable condition, he (petitioner) came to his house but after some time he heard some noise and went upstairs and saw that Pragati had set herself ablaze and though he tried to extinguish the fire but to no avail and in the said sequence petitioner had sustained multiple burn injuries to the extent of 30%, as is evident from photographs (Annexure P/2). He further submits that as a matter of fact petitioner is victim, whereas Pragati (since deceased) was unfaithful in her marital relations as she betrayed trust and then to cover up her misdeeds, she had set herself ablaze. He further submits that petitioner has already moved an application on 13.11.2021 before Superintendent of Police, Sonipat, for fair investigation of the matter by obtaining call details record of Vijay @ Guddu and Pragati (since deceased). He further submits that nothing incriminating is to be recovered at the instance of petitioner. He further submits 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.

Notice of motion.

At the asking of Court, Mr. Amit Aggarwal, Deputy Advocate General, Haryana, accepts notice on behalf of respondent-State. Complete copy of paper book has been supplied to him.

Learned State counsel while opposing the cause of petitioner has vehemently argued that allegedly on 29.08.2021 at about 1:00 AM

(midnight) petitioner on instigated by his parents poured oil upon his wife-Pragati (since deceased) with an intention to kill and set her ablaze. He further urges that victim-Pragati had sustained 95% burn injuries in the incident in question and during treatment she suffered miscarriage and accordingly, offence under Section 316 IPC was added in the array of offences. He further urges that after obtaining fitness certificate from the doctor concerned, statement of victim-Pragati was recorded by Shri Anil Kumar, Executive Magistrate/Tehsildar (HQ), District South, Revenue Department, Government of NCT of Delhi. He further urges that relevant portion of statement of victim-Pragati is reproduced hereunder:-

“She stated that four-five days prior to the incident in question, petitioner used to quarrel and beat her and was pressurizing her to go to her parental home because he will not be able to afford the child. She further stated that parents of petitioner were also pressurizing him to discard her and that they would arrange his second marriage with another girl. She further stated that it was love marriage between her and petitioner and on 29.08.2021 at about 1:00 AM (midnight), petitioner came and after taking his clothes, he locked her in the room and set the clothes on fire on the rooftop. She further stated that their neighbour Shivani opened the room and when she went on the rooftop, she found that petitioner was setting the clothes on fire. She further stated that when she tried to stop the petitioner, he abused her and stated that he would also set her ablaze and he poured the kerosene like oil upon her from a bottle and as there was already fire, her clothes also caught fire, due to which she sustained burn injuries. She further stated that when she raised noise, one Guddu came there and after extinguishing fire got her admitted in Satyawadi Raja Harishchandra Hospital, Narela, Delhi, from where she was referred to Safdarjung Hospital, Delhi, and during her treatment she suffered miscarriage in the night of

30.08.2021. She further stated that for the incident in question, the petitioner and his parents are solely responsible and she is making this statement out of her own free will, without any pressure and in her full senses.”

He further urges that due to burn injuries, victim-Pragati died and accordingly, offence under Section 302 IPC was also added in the array of offences. He further urges that as per Postmortem Examination Report, the cause of death is due to septicemia as a result of antemortem infected thermal flame burns involving about 95% of total body surface area. He further submits that petitioner has been named in the FIR as the main accused and there are specific allegations against him of causing harassment and pouring oil upon victim-Pragati (since deceased) and then setting her ablaze. He further urges that in view of nature of offence committed by the petitioner, his custodial interrogation is necessitated to unveil the truth and as such he is not entitled to the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the record of the case.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly on 29.08.2021 at about 1:00 AM (midnight) petitioner on instigated by his parents poured oil upon his wife-Pragati (since deceased) with an intention to kill and set her ablaze, due to which she sustained 95% burn injuries and later on she succumbed to said burn injuries.

Pre-arrest bail is not to be granted as a matter of routine/course in all cases. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial

and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is well-settled that the order of anticipatory bail cannot be allowed to circumvent normal procedure of arrest and investigation by the police. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. 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 to 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

24.01.2022

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