

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

204

CRM-M-33603-2022 (O&M)

Date of Decision : 05.01.2023

Ram Singh @ Ram

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

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

Ms. Priyanka Sadar, AAG, Haryana

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner, through instant petition under Section 439 Cr.P.C., is seeking regular bail in FIR No. 27 dated 22.02.2021 under Sections 363, 366-A of the Indian Penal Code, 1860 (Sections 376 (2) (N), 343 & 506 IPC and Section 6 of the Protection of Children From Sexual Offences Act, 2012 added later on), registered at Police Station Baragudha District Sirsa.

2. Learned counsel for the petitioner *inter alia*, contends that the petitioner, at the time of commission of alleged offence, was 20 years old and prosecutrix was 17 years and 03 months old. The prosecutrix has already been examined as well as cross-examined. She has *inter alia* deposed that she at her own will left her home and stayed in mustard fields for 05 days without food. The petitioner is in custody since 27.02.2021. It is a case of affair between a young couple and on being caught by family

members, the FIR has been registered. The conclusion of trial would take quite long time. The challan has already been presented and charges stand framed. The petitioner has been wrongly implicated in the commission of alleged offence. The petitioner is not involved in any other FIR. The petitioner is permanent resident of District Sirsa and staying with family members. The petitioner has deep roots in the society. There is no possibility of flee from justice.

3. Learned State Counsel submits that police report has already been filed and charges stand framed. The petitioner is involved in the commission of grave offence, thus, no leniency is warranted and release of petitioner would hamper the trial.

4. A two Judge Bench of Hon'ble Supreme Court in **Satender Kumar Antil v. CBI (2022) 10 SCC 51**, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus

to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

5. Intent of arrest and reason of denial of bail is to:

- i) Secure the appearance of the accused at the time of trial;
- ii) Allay possibility of repeating of offence & jeopardising own life on account of grim prospect of being convicted;
- iii) Avoid possibility of tampering of evidence and security of witnesses who may be pressurised or maltreated.

6. A person who seeks to be liberated must take judgment and serve sentence in the event of his conviction. The nature of the crime charged, severity of punishment prescribed, prime facie available evidences, history & background of the accused may indicate that any amount of bond and surety is not going to secure presence of accused, at the time of conviction. Detention or arrest not only deprives a person from his fundamental right of personal liberty guaranteed by Article 21 but also freedom guaranteed by article 19(1) of our Constitution.

7. Keeping in mind:

- i) The Petitioner is in custody since 27.02.2021;
- ii) Police report under section 173 of Cr.P.C. stands filed and charges stand framed;
- iii) The prosecution stands examined as well cross-examined;
- iv) There are total 24 witnesses and till date 06 have been

examined, thus, there is abysmally low possibility of conclusion of trial in near future;

v) Twin stringent conditions of bail prescribed under special statutes like PMLA, UAPA, NDPS Act , Companies Act are not applicable in the case in hand;

vi) The Petitioner is not involved in any other criminal case;

vii) The Petitioner is permanent resident of District Sirsa and having family members;

viii) Prosecution has not led any convincing/plausible documentary or oral evidence indicating possibility of Petitioner being flee from justice or tempering the evidences or winning over/threatening the witnesses;

this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. The petitioner is ordered to be released on bail subject to conditions as may be imposed by trial Court/Illaq/Duty Magistrate concerned.

(JAGMOHAN BANSAL)
JUDGE

05.01.2023
anju

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>