

AZAD SHARMA

V/S

STATE OF HARYANA

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Namit Khurana, Advocate for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR J. (ORAL)

The prayer in the present petition is made for grant of regular bail in case FIR No.1356 dated 08.09.2023 registered under Sections 384, 389, 419 and 34 of Indian Penal Code registered at Police Station Civil Line, District Karnal.

2. The FIR was lodged on the Statement made by Vipin Kumar, on the allegations that he runs a Government Ration Depot and the petitioner has been blackmailing him to pay money, otherwise he will make fake videos and circulate on news channels and different Whats App groups, which may lead to cancellation of the license of the government depot run by the complainant. After getting tired of his blackmailing tactics, the complainant reported the matter to police and Duty Magistrate was requested to lay the trap. The complainant was having Rs.25,000/- in the denomination of Rs.500/- notes and he met the petitioner. As soon as the complainant handed over the money to the petitioner, the police caught him red handed along with the currency notes, in the presence of learned Duty Magistrate.

3. The learned counsel for the petitioner *inter alia* contends that the

petitioner is in custody since 08.09.2023. The present case is lodged as a counterblast to the complainant, made by the petitioner against him, which is annexed as Annexure P-2. Even a bare perusal of the allegations in the FIR indicate that no offence under Sections 384 and 389 of IPC is made out.

4. Per contra, learned State counsel opposes the grant of regular bail to the petitioner on the ground that he is claiming himself to be a journalist, whereas he is not having any license or accreditation and he does not work with any news channel or any newspaper, rather he runs a You Tube channel and blackmails people for extracting money.

5. 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."

6. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the investigating agency, after completion of the investigation, has submitted the final report under Section 173 Cr.P.C. on 04.12.2023. The trial of the case is yet to commence and out of 17 prosecution witnesses cited, none has been examined so far. The

culpability of the petitioner would be seen at the time of the trial.

7. Accordingly, the present petition is allowed. The petitioner Azad Sharma is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the CJM/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

December 15, 2023
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(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No