

CRM-M-56049-2023
Date of decision: 21.11.2023

Versus

State of U.T. Chandigarh ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Manish Bansal, Addl.P.P.,
for the respondent-U.T. Chandigarh.

HARPREET SINGH BRAR, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. seeking regular bail in a case bearing Fir No.264 dated 20.08.2023 under Sections 370/370-A (2)/120-B of IPC registered at Police Station Sector 36, U.T. Chandigarh (Annexure P-1).

Brief facts of the case are that SI Gurjivan along with his team was on patrolling duty and at about 10:30 P.M., they were present near Govt. School Village Kajheri, Chandigarh, where they received a secret information that one person, namely, Raj, who is running Hotel Maan in Village Kajheri, Chandigarh brings girls from other States to Chandigarh and puts them in prostitution. On the basis of this information, the WCHL team was called and raid was conducted at Hotel Maan, where, one girl was recovered from Room No. 201, First Floor, who stated that she belongs to Jabalpur, Madhya Pradesh. She further stated that Sunil (Hotel Manager), Jasbir, Brijesh (Cook) and Raj (owner of

CRM-M-56049-2023

-2-

Hotel) bring girls on the pretext of work and get them involved in the prostitution and, thus, the present case was got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner is the employee of the hotel and he has no concern or control over the management of the hotel. Similarly, situated co-accused, namely, Sunil Kumar and Brijesh, have already been granted regular bail vide order dated 20.11.2023 passed by this Court in CRM-M-57345-2023 titled as 'Sunil Kumar and another Vs. U.T. Chandigarh.'

Per contra, the learned State counsel has opposed the grant of regular bail to the petitioner on the ground of heinousness of the crime and seriousness of the offence and submits that if allowed regular bail to the petitioner, he might influence the witnesses and commit the same offence again.

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 demo

CRM-M-56049-2023

-3-

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

Having heard learned counsel for the parties and perusing the records of the case, it transpires that the petitioner is behind the bars since 20.08.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 19.10.2023. There are 13 prosecution witnesses out of which, none has been examined so far and as such, the trial of the cases would take long time to conclude.

Keeping in view the period of incarceration and since the challan has already been presented against the petitioner and the likelihood of trial being prolonged, the present petition is allowed. Culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Jasbir Kumar is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

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.

(HARPREET SINGH BRAR)
JUDGE

21.11.2023
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No