

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

214

CRM-M-60839-2022

Date of Decision: 09.01.2023

Navdeep Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr.K.S.Brar, Advocate
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner, through instant petition under Section 439 Cr.P.C., is seeking regular bail in FIR No. 149 dated 22.09.2022 under Sections 354-D, 341 & 506 IPC and Sections 11 (iv) and 12 of POCSO Act, 2012, registered at Police Station Sadar Faridkot, District Faridkot.

2. Learned counsel for the petitioner *inter alia* contends that the case is of stalking and parties have entered into compromise. The petitioner is in custody since 09.10.2022 and he is just a 19 years old boy. The petitioner is not involved in any other offence. The petitioner is permanent resident of District Faridkot 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 *challan* has already been presented and charges stand framed. He does not dispute the factum of

compromise between the parties.

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. 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.

7. 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.

8. Keeping in mind:

- i) The Petitioner is in custody since 09.10.2022;
- ii) Police report under section 173 of Cr.P.C. stands filed, charges stand framed;
- iii) There are 11 prosecution witnesses but till date, no witness has been examined, thus, there is abysmally low possibility of conclusion of trial in near future;
- iv) The parties have entered into a compromise ;
- v) The petitioner is a 19 years old boy and staying with his family members ;
- vi) It is a case of stalking and there is no physical assault on the part of the petitioner ;
- vii) Twin stringent conditions of bail prescribed under special statutes like PMLA, UAPA, NDPS Act, Companies Act are not applicable in the case in hand;
- viii) The Petitioner is not involved in any other criminal case;
- ix) The Petitioner is permanent resident of District Ferozepur and staying with family members;
- x) 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 allowed and accordingly allowed. The petitioner is ordered to
be released on bail subject to conditions as may be imposed by trial
Court/illaqa/Duty Magistrate concerned.

(JAGMOHAN BANSAL)
JUDGE

09.01.2023
anju

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