

CRM-M-6463-2024

Sunny @ Snee

....Petitioner

State of Haryana

...Respondent

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

HARPREET SINGH BRAR, J. (ORAL)

The FIR (*supra*) was lodged on the complaint of the complainant, namely, Ashok, alleging that one Sunny son of Billa resident of Khatik Basti, Panipat, on the pretext of marriage, enticed away his daughter, namely, Angel, who is 15 years of age and, thus, the FIR was registered.

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was taken to Civil Hospital, Panipat where she has refused to get her medical conducted. Thereafter, the daughter of the complainant was produced before the concerned jurisdictional Magistrate and her statement under Section 164 Cr.P.C. was recorded. Learned counsel for the petitioner has referred to the statement of the victim recorded under Section 164 Cr.P.C. (Annexure P-1) in which she has not made any allegation against the petitioner with regard to his involvement in the alleged incidence and she has categorically stated that she left her house after she had a fight with her grandmother who has given her beatings. The victim was asked to leave the house and in anger she went away and, thereafter, she went to Devi Temple where she was found and now her parents told her that they will not say anything to her and asked her to come home. It is further contended that the investigation of the case is complete and final report has already been submitted before the concerned jurisdictional Magistrate.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that the witnesses are yet to be examined, however, he could not controvert the fact that petitioner is not involved in any other case and further submits that the petitioner is behind the bars for 07 months and 20 days and has produced the custody certificate in this regard which is taken on record.

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.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars for 07 months and 20 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made any progress as none out of 16 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the

CRM-M-6463-2024

-4-

trial, the petitioner-Sunny @ Snee 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

08.05.2024
Neha

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