



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

CRR-310-2024

Date of decision: 19.07.2024

Juvenile A through his next friend & Guardian

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepak Choudhary, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present revision petition has been filed against the judgment dated 06.10.2023 passed by the learned Additional Sessions Judge-cum-Special Judge, Fast Track Court, Fatehabad and order dated 15.06.2023 passed by the learned Principal Member, Juvenile Justice Board, Fatehabad.

Brief facts of the case are that on 14.02.2023, the complainant after visiting Police Station City, Fatehabad presented a complaint alleging that he has two children and the age of his elder daughter is about 14 years and younger to her is his son aged about 10 years. Yesterday, after taking meal, they all family members went to sleep at night. When he woke up in the morning, his daughter was not found present at home and on search, he could not trace her. Thereafter, he came to know that his daughter has been enticed away by one Deepak and AK @ D and both the boys had been working at Gangotri R.O. Water. It is further alleged that his daughter has also taken away an amount of Rs.15,000/-, Aadhar Card and family ID as well as one mobile phone with her and thus, the FIR in question got registered.



CRR-310-2024

-2-

Learned counsel for the petitioner *inter alia* contends that petitioner and the prosecutrix both eloped together after falling in love with each other. The proximity in the age between the petitioner and the prosecutrix requires a lenient view as both were to tender age at the time of incident and petitioner is having clean antecedents and their relationship was purely consensual and devoid of any *mens rea*. He further submits that statement of the prosecutrix was recorded under Section 164 Cr.P.C. before the jurisdictional Magistrate on 28.02.2023, wherein, she has not levelled any allegation with regard to any sexual assault committed by the petitioner. Moreover, the date of birth of the prosecutrix is not proved in accordance with law. He further submits that the petitioner is behind the bars since 02.03.2023.

Per contra, the learned State counsel opposes the grant of bail to the petitioner on the ground that there are serious and specific allegations against the petitioner and the prosecutrix was minor at the time of incident, as such, the petitioner is not entitled to the relief of bail.

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 since 02.03.2023. 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 much progress as only 04 out of 17 prosecution witnesses and material witnesses including the prosecutrix and her father, 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 revision petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Juvenile ‘A’ 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

19.07.2024

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