



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

CRM-M-9467-2024

Date of decision: 02.08.2024

Prince Singh

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikas Gupta, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.210 dated 03.12.2023 under Sections 363/366-A/120-B of IPC (added later on) registered at Police Station Sadar Tarn Taran, District Tarn Taran.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that he is a labourer and having two children. His daughter/prosecutrix is aged about 16 years 02 months (at the time of incident). His sister-in-law (*bhabhi*) gave proposal about Lovepreet Singh for his daughter/prosecutrix but he refused the same. On 27/28.11.2023 during midnight, he woke up in the night time to answer nature's call and saw that his daughter/prosecutrix was not present on her cot. He tried to trace her but could not find her and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner has no role in the alleged incident. In fact, the daughter of the complainant and co-accused-Lovepreet Singh fell in love with each other and



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they intend to marry each other, however, their relationship was opposed to the complainant, as such, both of them eloped. He further submits that as per his instructions, Lovepreet Singh and the daughter of the complainant have performed marriage and both of them are cohabiting together as husband and wife. The petitioner is not involved in any other case and there is no allegation against the petitioner with regard to sexual assault.

Office report indicates that respondent No.2 was duly served, however, there is no representation on his behalf.

The learned State counsel has filed short reply dated 01.08.2024 in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that the petitioner facilitated the removal of the daughter of the complainant from her lawful guardianship and there is sufficient material to indicate his complicity.

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



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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 14.12.2023. 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 out of 10 prosecution witnesses, none has 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 trial, the petitioner-Prince Singh 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

02.08.2024

<i>Neha</i>	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No