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

CRM-M-15282-2024

Date of decision: 04.04.2024

Amritpal Singh alias Kali

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. L.S. Mann, 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.94 dated 01.10.2022 under Section 306 of IPC (Section 201 of IPC added later on) registered at Police Station Sadar Raikot, District Ludhiana Rural.

The present FIR was lodged on the allegations that the daughter of the complainant was a minor girl, namely, Gurpreet Kaur, who studied in 12th Standard and her date of birth was 19.06.2004. It is further alleged that the accused/petitioner used to provide loan to the labourers and wanted to marry with the daughter of the complainant, therefore, he, in connivance with one, Baljinder Kaur, pressurized her to marry him. The said Baljinder Kaur called the complainant's daughter in her house and showed her fake suicide video of the accused/petitioner and told her that she did not marry him, therefore, he has committed suicide and has given threats that now a criminal case is to be

registered against her. She has also given threats to show this video to her parents. Due to fear on 19.09.2021, Gurpreet Kaur has taken some poisonous substance and committed suicide. The motive behind the incident stated that the accused/petitioner forced the complainant's daughter to marry him.

Learned counsel for the petitioner *inter alia* contends that there is a delay of one year in the registration of the FIR which creates serious doubt on the case set up by the prosecution. The petitioner is behind the bars since 31.03.2023 and there are no specific allegations to breach the threshold of abetment as provided under Section 107 of IPC to make the petitioner liable for the offence under Section 306 of IPC. The Investigating Agency has already concluded the investigation and final report under Section 173 Cr.P.C. has already been filed. He further submits that initially when the proceedings under Section 174 Cr.P.C. conducted no one was named or suspected for the offence alleged in the FIR (*supra*).

Per contra, the learned State counsel submits that there are specific allegations and petitioner is the main accused, as such, he is not entitled to grant of regular bail. He further submits that the petitioner is involved in one more case.

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 31.03.2023. 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 out of 13 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.

Keeping in view the law laid down by the Hon'ble Supreme Court of India in 'Prabhakar Tewari Vs. State of U.P. and another' 2020 (1) R.C.R. (Criminal 831) and 'Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another', 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

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-Amritpal Singh @ Kali 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

04.04.2024
Neha

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