

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

CRM-M-16539-2024
Date of decision: 20.05.2024

....Petitioner

Versus

...Respondent

Present: Mr. Sandeep Kumar Passi, 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.23 dated 22.03.2022 under Sections 363/366-A of IPC registered at Police Station Tappa Mandi, District Barnala, Punjab (Annexure P-1).

The FIR (*supra*) was lodged on the statement of the complainant, namely, Karnail Singh, that he along with his wife, namely, Veero Kaur, went to village Malkisar (Rajasthan) for harvesting the mustard crop and then, his son, namely, Sebu Singh, called at around 04:00 P.M. on 19.03.2022 and told that their daughter, namely, Mita Kaur, is not present at home. The complainant and his wife went back to their home at village Dhilwan and started searching their daughter but they failed to trace her whereabouts. It is further alleged that some unknown persons have enticed their daughter on the pretext of solemnizing



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marriage with her and, thus, the present FIR was registered.

Learned counsel for the petitioner *inter alia* contends that initially the FIR (*supra*) was registered against unknown persons, thereafter, on 06.05.2022, a supplementary statement was made by the complainant in which the petitioner was named on the allegations that petitioner had enticed her on the pretext of marriage. Thereafter, on 14.05.2022, he makes another supplementary statement and involved Bhushan Singh @ Sonu as accused. It is further contended that the statement of the victim was recorded by the Investigating Agency under Section 161 Cr.P.C. and by the jurisdictional Magistrate under Section 164 Cr.P.C. In both the statements, she has not attributed any allegation against the petitioner rather she has alleged that she had gone on her own will along with the petitioner and she gave her address to the petitioner.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that petitioner is the main accused and he has evaded his arrest for more than one year and during investigation, sufficient material has been collected by the Investigating Agency to prove the complicity of the petitioner.

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 27.11.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 04.01.2024 and trial of the case has not made much progress as none out of 15 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 trial, the petitioner-Gopi 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

20.05.2024
Neha

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