



211 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17539-2024 (O&M)

Date of decision: 24.07.2024

ASHOK DHAKA

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Bairagi, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG Haryana.

HARPREET SINGH BRAR J. (ORAL)

1. This is the first petition filed under Section 439 of Cr.P.C. read with Section 482 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 352 dated 27.09.2023 registered under Sections 376(2)(n), 506 of Indian Penal Code, 1860 and Sections 66e and 67 of Information and Technology (Amendment) Act 2008 at Police Station Arya Nagar, Rohtak.

2. Present FIR was registered on the statement of complainant Mahima on the allegations that on 20.08.2021, she met with one Ashok Dhaka (petitioner herein). During that time, she was preparing for HSSC after completing her graduation, and petitioner-Ashok had assured her that his sister had a good hold in politics and that he would get her a government job. The complainant believed his words and they started talking on the phone. After that, petitioner called her in the first week of September 2021 to Jai Restaurant and Hotel near Gohana bus stand, Rohtak to get her a job and on the pretext of getting her a job, he made physical relations with the complainant and after that, petitioner several times, by alluring her to get her joining in the Durga Shakti Haryana Police, took her to Hotel Saawariya, located behind Indra



Colony police post and made physical relations with her. Petitioner-Ashok had many times got her forms filled for different jobs so that she would remain trapped in his trap and he can continue exploiting her physically. He had been making relations with her since 20.08.2022. After that, on 30.08.2022, she went to Gurugram to get a good coaching, but petitioner kept pressuring her to meet him. It was further alleged that petitioner sends her threatening and obscene messages through WhatsApp messages and also tracks her family members and threatens her by sending their current location and keeps threatening her and intimidating her by writing threatening messages and obscene messages on her bathing photos. The petitioner is also defaming her by posting his profile photo on WhatsApp and he is threatening her and sits in front of her house the whole day in Rohtak. It was further alleged that on 17 September 2033, she had also received a threatening message from WhatsApp number 9991253358 in which she had been threatened by writing the last four digits of all the mobile numbers of her family members. On the basis of aforesaid allegations, FIR(supra) was lodged.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case and no such incident has even occurred in the manner described by the prosecutrix. In fact, the petitioner and the prosecutrix were having a consensual relationship and the prosecutrix is a mature lady of 24 years of age and relationship between the petitioner and prosecutrix soured after petitioner demanded the money, he had lent to her. The petitioner is in the possession of an audio recording of the petitioner and prosecutrix, in which he is demanding the money she took from him and he further relies upon the whatsapp chat history from 18.03.2022 to 03.11.2022 to substantiate that petitioner and prosecutrix were having



consensual relationship. The petitioner is having strong roots in the society and he is not a flight risk.

4. Per contra, the learned State counsel opposes the prayer made by learned counsel for the petitioner on the ground that petitioner has exploited the prosecutrix on the pretext of getting her employed in Government service as petitioner has claimed that he is an influential person. However, he could not controvert the fact that petitioner is not involved in any other case.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 08 months and 23 days as on 23.07.2024. Trial of the case is likely to take long time to conclude as out of total 13 prosecution witnesses, only 01 has been examined so far. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. 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 demo cracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

7. Accordingly, the present petition is allowed. The petitioner-Ashok Dhaka is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

8. 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.

July 24, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No