

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

CRM-M-17311-2024

Date of decision: 01.10.2024

....Petitioner

Versus

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Yashveer Kharb, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

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.392 dated 15.09.2023 under Sections 323/452/376/511/354/380/506 of IPC (Section 307 of IPC was added later on) registered at Police Station Tehsil Camp Panipat, District Panipat.

The learned State counsel, on instructions from SI Rahul, submits that the concerned SHO has complied with the directions issued by this Court on 28.05.2024 and respondent No.2 was duly informed on 08.08.2024 at her present address and now she is residing at Jasbir Colony, Noorwala, Panipat, in a rented accommodation. Service of respondent No.2 has been duly effected through the concerned jurisdictional Police Officer, however, there is no representation on her behalf, as such, this Court has no other option but to decide the case on merits.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that on 14.09.2023 at about 01:00 P.M., the complainant was alone

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in her room and suddenly a boy from her village, namely, Satender (the petitioner herein), who lives in a rented room in Jasbir Colony, Panipat, came to her room and started molesting her with bad intention and tried to do wrong act with her. When the complainant protested, he has given beatings to her and strangled her due to which she fell on the ground and when she regained consciousness, she found herself in a hospital and found that her *mangalsutra* was missing from her neck and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated by the prosecutrix. The petitioner and the prosecutrix were staying in a neighbourhood in a rented accommodation. The alleged occurrence had taken place on 14.09.2023, however, the jurisdictional police authorities were informed on 15.09.2023 and a false case has been set up against the petitioner after due deliberations and consultations. Further, the prosecutrix has refused to undergo medical examination with regard to sexual assault and her medical examination reveals that there is no injury which could remotely suggest that the petitioner can be held liable for the offence under Section 307 of IPC. The invocation of Section 307 of IPC is debatable. Further, the prosecutrix was discharged from the hospital in a satisfactory condition on 19.09.2023. The petitioner is behind the bars since 14.10.2023 and the prosecutrix is not coming forward to depose before the learned trial Court in spite of issuance of non bailable warrants. Her counsel has put in appearance, however, the prosecutrix has not come present to depose before the learned trial Court.

The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail



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to the petitioner on the ground that there are serious and specific allegations against the petitioner and on account of certain marks on the neck of the prosecutrix, the doctor has given opinion with regard to invocation of Section 307 of IPC and as such, the petitioner is not entitled to any relief.

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 for 11 months and 16 days as on 30.09.2024. 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 even reached half way mark as only 04 out of 14

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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-Satender Lodhi 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

01.10.2024*Neha*

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