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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-17225-2024 (O&M)
Date of decision: 16.04.2024

Manpreet Singh @ Rajan

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sarbjit Singh, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.125 dated 02.06.2023 under Sections 363, 366, 376, 341 of the Indian Penal Code, 1860 and Section 8 of The Protection of Children from Sexual Offences Act, 2012, registered at Police Station Maqboolpura, District Amritsar.

2. The present FIR was registered on the statement of complainant on the allegations that she is doing the job of Care Taker in a school at Verka and has two children i.e. one son and one daughter, who is studying in 10th Class. It is further stated that outside her house, one motorcycle repair shop

is there, which is run by Manpreet Singh @ Rajan and from the last one year, he used to tease her daughter, when she goes to the school. On 31.05.2023, when her daughter left for school, then Manpreet Singh @ Rajan took her on the motorcycle on the pretext of marriage.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner and daughter of the complainant were in a consensual relationship and both of them wanted to get married. Learned counsel relies upon statement of the complainant, who appeared as PW1 and the statement of victim, who appeared as PW2, to submit that both of them have not supported the case of the prosecution and have been declared hostile by learned Public Prosecutor. The petitioner is behind bars since 03.06.2023 and is not involved in any other case.

4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that he is main accused and there are serious and specific allegations against him and keeping in view the nature and gravity of the offence committed by him, the petitioner is not entitled to grant of regular bail.

5. 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 03.06.2023; he is not involved in any other case, as per the custody certificate dated 15.04.2024; material witnesses have already been examined and they have not supported the prosecution version; trial of the case is likely to take long time to conclude, as only 02 out of 15 prosecution witnesses

have been examined so far. The culpability, if any, would be determined at the time of trial. 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.

6. A two Judge Bench of the 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 as under: -

“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.”

7. 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, petitioner Manpreet Singh @ Rajan 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.

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.

16.04.2024
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[HARPREET SINGH BRAR]
JUDGE

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