

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

CRM-M-20861-2024
Date of decision: 25.07.2024

....Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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.63 dated 02.08.2023 under Sections 363/372/366/366-A/376/120-B of IPC and Section 4 of POCSO Act, registered at Police Station Ramdas, District Amritsar.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that on 28.07.2023 in the morning at around 10:00 A.M., his daughters, namely, Monica who is 16 years of age and Antara who is 14 years of age, without even asking or telling the whole family, went away from the house with some unknown persons. It is further alleged that the complainant along with his family tried to locate them but could not trace them and on 31.07.2023, his younger daughter, namely, Antara returned back home but his elder daughter, namely, Monica has not returned till date and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the younger sister of the prosecutrix has made different statements at different



CRM-M-20861-2024

-2-

stages and the stand of the prosecution witnesses is not consistent. It is further contended that sister of the prosecutrix made a statement that she along with her sister had run away from the house since their parents used to beat them a lot and they stayed in the house of Prem Masih and, thereafter, with another person with whom, her elder sister had an affair. Initially, two persons were named as an accused, thereafter, Jaskaran and Pawan were named and after making further improvement in statement, petitioner along with Vipran were made accused. He further submits that material witnesses have already been examined.

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 to the petitioner on the ground that the petitioner is accused of heinous crime and very serious allegations have been levelled against her regarding exploitation of the prosecutrix and her sister and compelled them to develop physical relations with various persons, however, he could not controvert the fact that petitioner is not involved in any other 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



CRM-M-20861-2024

-3-

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 04 days as per custody certificate. 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 only 06 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 her 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-Rani is ordered to be released on regular bail during trial on her 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

25.07.2024

Neha

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