



206

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

CRM-M-21731-2024

Date of decision: 19.07.2024

Suraj

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Tarun Kumar, 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.1064 dated 28.09.2023 under Sections 354/354-A/506 of IPC and Section 67 A of I.T. (Amendment) Act, 2008, (Sections 201/354-C/354-D/376(2)(n) of IPC added later on) registered at Police Station HTM Hisar, District Hisar, Haryana (Annexure P-1).

The FIR (*supra*) was lodged on the statement of the complainant by alleging that the accused/petitioner was studying with the complainant. In the month of May, 2019, the accused started following her while her way to school. He somehow found her mobile number and started talking with her. He took her photographs and started blackmailing her and also sent those photographs to her family members. On 12.09.2023, accused made ID in her name and is uploading status on Instagram. They made complaint about this to mother of the petitioner but all in vain and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner is in custody since 03.10.2023 and out of 21 prosecution witnesses only 01 has been examined so far. He further contends that the allegations



CRM-M-21731-2024

-2-

against the petitioner pertains to the period starting from June, 2022-2023 and the FIR was registered on 28.09.2023. The delay in lodging of FIR is unexplained. Further, the prosecutrix has earlier moved an application against the petitioner on the same set of allegations on 17.09.2023 which was withdrawn and the pendrive which was recovered from the petitioner does not contain any obscene material which clearly falsify the case set up by the prosecution. Even in the medico legal report, there is nothing to corroborate the case of the prosecution.

The learned State counsel has filed the 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 the main accused and he has sent obscene material to the family members of the complainant/prosecutrix and there is sufficient material available on record to indicate his complicity, however, he could not controvert the fact that the 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 curtailment of liberty, and thus to be used



CRM-M-21731-2024

-3-

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 04.10.2023 and has undergone 09 months and 15 days as on 18.07.2024 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 01 out of 21 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-Suraj 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

19.07.2024

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