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

CRM-M-22403-2024

Date of decision: 12.08.2024

Arun @ Soni

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Raghav Bali, Advocate for
Mr. Naveen Kumar Kuhad, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, 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.469 dated 12.12.2023 (Annexure P-1) under Sections 354-A(i)(ii)/354-D/506/509/294 of IPC and Section 12 of POCSO Act, 2012 registered at Police Station Sadar Hansi, District Hisar (Haryana).

The FIR (*supra*) was lodged on the statement of the complainant by alleging that her daughter/victim, namely, 'S', aged about 15 years (at the time of incident) and the petitioner/accused used to harass her and follow her on the way to her school and wrongfully restrained her and asked her to make friendship with him. It is further alleged that on 30.11.2023, when the victim along with her cousin brother were going to school, petitioner/accused restrained them in the way and again asked for friendship to which the victim flatly refused. Thereafter, the accused abused the victim and made obscene gestures towards her. When the victim narrated the whole incident to her



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parents, her parents went to the house of the accused to make complaint where the petitioner along with other co-accused, namely, Rahul, Kavita, Surender, Ravi, Sanju, Sunita and Sonu started abusing them and they were armed with deadly weapons and parents of the victim came back after rescuing themselves. All the accused persons threatened them to kill and kidnap their daughter and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. In fact, at the time of incident, the petitioner was 18 years of age and prosecutrix was studying in Class 10th and the allegation against the petitioner are that he along with other accused, namely, Rahul, Kavita, Surender, Ravi, Sanju, Sunita and Sonu, abused the prosecutrix and her cousin. The petitioner had threatened to kidnap the prosecutrix and they were armed with deadly weapons. Earlier also, the petitioner used to tease the prosecutrix and stopped her when they were going to school. It is further contended that all other co-accused have been found innocent during investigation and as such, the case set up by the prosecution is not believable and the maximum sentence provided under the offences in which the FIR was registered, is upto seven years. He further submits that the petitioner has already undergone more than 06 months of actual sentence and is not involved in any other case.

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 petitioner has sexually harassed the minor girl of the complainant and the allegations against him are serious in nature.

However, she 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 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 17.01.2024 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 out of 13 prosecution witnesses, none has 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-Arun @ Soni 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

12.08.2024
Neha

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