



206 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23152-2024
Date of decision: 14.05.2024

AkashPetitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kunal Choksi, 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.58 dated 08.03.2023 (Annexure P-1) under Sections 323/363/354-A/506/34 of IPC and Section 8 of POCSO Act, registered at Police Station Kosli, Rewari, Haryana.

The FIR (*supra*) was lodged on the allegations that on 08.03.2023 around 01:30 P.M. when the daughter of the complainant, who is aged about 14 years, had gone out to throw garbage, the accused/petitioner forcefully dragged her towards the fields and sexually assaulted her. While raising alarm, she had bitten the hand of the accused/petitioner and got herself freed. After hearing the noise, Parveen @ Monu and Sudhir reached on the spot and questioned Akash, whereupon, he caused injuries to both of them and threatened to kill them and thus, the FIR (*supra*) was registered.

Learned counsel for the petitioner *inter alia* contends that the case set up by the prosecution is very difficult to believe. As per the statement of the prosecutrix/victim, she was raising alarm while she was being dragged by the



CRM-M-23152-2024

-2-

petitioner and she has admitted that the place of occurrence is on the main road of the village and it has many houses situated nearby. It is further contended that the prosecutrix has not undergone any medical examination and while appearing in the witness box, she has proved her version and there are many discrepancies. In fact, there was a fight between the petitioner and brothers of the prosecutrix, namely, Sudhir and Parveen. It is further contended that the petitioner is behind the bars since 08.03.2023 and material witnesses have already been examined and the trial is likely to take long time as the trial is progressing at the snail's pace.

Per contra, the learned State counsel opposes the grant of regular bail on the ground that the petitioner is the main accused and there are serious allegations against him. He further submits that the petitioner has undergone the custody of 01 year 02 months and 05 days as on 13.05.2024.

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



CRM-M-23152-2024

-3-

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 with their assistance, it transpires that the petitioner is behind the bars since 08.03.2023 and the trial of the case has not made much progress as only 07 out of 15 prosecution witnesses have been examined so far. As such, the trial of the case has not even reached halfway mark. 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-Akash 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

14.05.2024
Neha

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