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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-23777-2024

Date of decision: 16.05.2024

Sat Parkash Verma @ Satya Parkash

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Raj Kumar Chauhan, Advocate
for the petitioner.

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.182 dated 21.10.2023 under Sections 363/366-A of IPC registered at Police Station Dugri, District Ludhiana.

The FIR (*supra*) was lodged on the statement of the complainant that on 14.10.2023 his youngest daughter, namely, Palak who is 16 years of age, was present in the house along with family and at around 08:00 A.M., she went to work and did not return. On search, the complainant came to know that the accused/petitioner enticed away his daughter on the pretext of marriage and his daughter took away her educational certificates, Rs.40,000/- cash, one pair of earring along with one gold ring and thus, the FIR (*supra*) was registered.

Learned counsel for the petitioner *inter alia* contends that the present FIR was registered by father of the prosecutrix. However, the



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prosecutrix has never levelled any allegation against the petitioner with regard to the offence as alleged in the FIR (*supra*). Even during her examination-in-chief, the prosecutrix has categorically submitted that the petitioner and the prosecutrix were studying in the same school and they developed friendship with each other. The prosecutrix has deposed that the petitioner has never developed any physical relationship with her. Even in her statement recorded under Section 164 Cr.P.C. before the jurisdictional Magistrate, she has not levelled any allegation of committing any offence by the petitioner against her. It is further contended that no offence under Section 366-A of IPC is made out against the petitioner as there is nothing on record to prove that the petitioner has induced the prosecutrix for any oblique purpose. The prosecutrix has already been examined and she has not supported the case of the prosecution and she was declared hostile by the learned Public Prosecutor.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that there are serious allegations against the petitioner and the prosecutrix is minor.

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



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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 29.10.2023. 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 02 out of 13 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-Sat Parkash Verma @ Satya Parkash 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

16.05.2024
Neha

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