

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

CRM-M-23697-2024
Date of decision: 16.05.2024

AnkitPetitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ankur Lal, 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.780 dated 09.10.2023 under Sections 365/506/34 of IPC and Section 4 of POCSO Act, registered at Police Station Indri, District Karnal, Haryana.

Mr. Ram Karan Agnihotri, Advocate puts in appearance on behalf of respondent No.2 and files his *vakalatnama* in the Court today which is taken on record.

The FIR (*supra*) was lodged on the statement of complainant that on 09.10.2023, his daughter, namely, Shivani, got disappeared from his house and in this case three boys are involved, namely, Ankit, Shivam and Dipanshu. It is further alleged that at around 11 o'clock, Ankit had taken away his daughter from his house and, thus, the present FIR was registered.



CRM-M-23697-2024

-2-

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. He further submits that the petitioner is totally innocent person, in fact, the daughter of the complainant has herself taken lift from the petitioner, in proof of which, the petitioner has CCTV footage in which the time and place when the victim/prosecutrix sought lift from the petitioner, who had already crossed her on his bike and on her request stopped and the prosecutrix walked over and sat on his bike, can be seen and the same CCTV footage was not taken into possession by the Investigating Officer reason best known to him. Admittedly, the allegation with regard to rape has been levelled by the prosecutrix in her statement under Section 164 Cr.P.C. against one, Shivam, and petitioner is alleged to have taken the victim by pointing a gun at her. It is further contended that the Investigating Agency has not presented the final report under Section 173 of Cr.P.C. under Arms Act and even the charges under the Arms Act have not been framed, as such, the entire case set up by the prosecution against the petitioner is a false trap.

Per contra, the learned State counsel assisted by Mr. Ram Karan Agnihotri, Advocate for respondent No.2, opposes the grant of regular bail to the petitioner on the ground that the victim is a minor and there are serious and specific allegations against the petitioner. Further, the learned State counsel 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 14.10.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court, charges were framed and trial of the case has not made much progress as there are 16 prosecution witnesses and 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-Ankit is ordered to be released on regular bail during trial on

**CRM-M-23697-2024****-4-**

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