



CRM-M-24029-2024 (O&M)

1

204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24029-2024 (O&M)

Date of decision: 17.05.2024

RAKESH @ DHILLU

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sudesh Kumar, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR J. (ORAL)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 126 dated 05.12.2023 registered under Sections 354-C, 354-D, 376(2)N, 450, 509 and 506 of Indian Penal Code and Sections 67 and 66D of Information Technology Act at Police Station Women Cell District Hisar.

2. The FIR(supra) was registered on the statement of Deepa, daughter of Shri Ram Singh, resident of house no. 219 Sector-14, Hisar tehsil and district Hisar, on the allegations that her mobile number is 7988113416 and one Rakesh alias Dillu (petitioner herein) resident of Tosham, district Bhiwani, whose mobile number is 9992338517, 7988787893, 9466462330, has hacked her number and all the IDs made on my number and black mailed her and abused her after drinking alcohol and harassed her by making different types of videos on her phone. It is further alleged that petitioner had blackmailed the complainant and talks about throwing her out of the house and puts pressure on her to marry him and he makes her videos and sends them to



all my relatives. It is further alleged that petitioner harasses her on the pretext that every day and the complainant had called him and explained it to him but he is not agreeing to it and says that she would have left him after defaming him.

3. Learned counsel for the petitioner *inter alia* contends that FIR(supra) was registered after a delay of 07 days, which remained unexplained. Moreover, the prosecutrix is a mature lady, having children and as such her relationship with the petitioner, if any, is consensual in nature and except the bald allegations, there are no incriminating evidence available on record and even the prosecutrix had refused to undergone medico-legal examination and in the absence of any other evidence corroborating her version, the case of the prosecution is likely to fall flat. Moreover, the petitioner is behind the bars since 12.10.2022.

4. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that petitioner is the main accused and there are serious allegations levelled against him. However, he could not controvert the fact that no other case is pending against the petitioner.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 12.10.2022 and out of total 14 prosecution witnesses, none has been examined so far. Therefore, trial of the case is likely to take long time to conclude. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the

Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. 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 demo cracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

7. Accordingly, the present petition is allowed. The petitioner-Rakesh @ Dhillu is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

8. 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.

May 17, 2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

(i)

Whether speaking/reasoned

Yes/No

(ii)

Whether reportable

Yes/No