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

CRM-M-23811-2024

Date of decision: 11.07.2024

Rohit

....Petitioner

Versus

Sate of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Aakash Dalal, 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.431 dated 13.09.2023 under Sections 354/354-D/506 of IPC and Section 12 of POCSO Act (Section 201/509 of IPC and Section 66-E of I.T. Act added later on) registered at Police Station Kalanaur, District Rohtak.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that her daughter, namely, Ishika, who was 18 years of age studying in Class B.A. LLB II year has been harassed by the accused/petitioner who chased and followed her till the gate of her college and pressurized her to develop a relationship with him. When her daughter refused, he extended threat to pour acid on her and due to fear, the complainant obstructed her daughter to attend the college. It is further alleged that the accused/petitioner defamed the daughter of the complainant by posting her nude pictures on social media and also sent threatening messages on her phone and when the complainant blocked him from everywhere, he started following her younger



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daughter, namely, Muskaan, aged 16 years, on the way to her school and used to pass filthy comments, and threatened the complainant that if she report any complaint against him, he will kill her son 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 by the complainant when she came to know that the petitioner was having an affair with the elder daughter of the complainant who is major and just to aggravate the offence, false allegations have been levelled to invoke the provision of Section 12 of the POCSO Act. He further relies upon the photographs of the petitioner and the elder daughter of the complainant to substantiate his claim that both were having a consensual relationship. The petitioner is behind the bars since 02.10.2023. The examination-in-chief of the prosecutrix/victim has already been conducted by the learned trial Court.

The learned State counsel has filed reply along with 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 there are specific and serious allegations against the petitioner and as such, he is not entitled to the concession of regular bail, 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 02.10.2023. 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 01 out of 19 prosecution witnesses has been partially 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-Rohit is ordered to be released on regular bail during

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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

11.07.2024
Neha

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