



CRA-S-1942-2024

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from there by extending threats to them and thus, the instant FIR got registered.

Learned counsel for the appellant *inter alia* contends that he has been falsely implicated in the present case. There is no corroboration to the case set up by the prosecutrix. He further submits that medical report and other scientific reports are also negative *qua* the complicity of the appellant and he is behind the bars since 27.04.2021. It is further submitted that the appellant was less than 18 years of age at the time of incident and the trial of the case is progressing at the snail's pace and even after passing of more than three years, the trial has not been concluded.

The learned State counsel, per contra, opposes the grant of regular bail to the appellant on the ground that there are serious and specific allegations against the appellant and the prosecutrix has duly supported and reiterated her accusation against him, however, he could not controvert the fact that the appellant 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."



The foundational concept of the criminal jurisprudence is to ensure speedy trial. The Hon'ble Supreme Court has repeatedly reiterated that right to speedy trial is enshrined in Article 21 of the Constitution of India. Speedy trial would cover investigation, enquiry, trial, appeal, revision and retrial etc. i.e. everything starting with the accusation against the accused and expiring with the final verdict of the last Court.

It has further been held in law that if a person is deprived of his liberty under a procedure which is not reasonable, fair, or just, such deprivation would be violative of his fundamental right under Article 21 of the Constitution of India. The procedure so prescribed must ensure speedy trial for determination of the guilt of such person. Some amount of denial of personal liberty cannot be avoided, but if the period of deprivation pending trial becomes excessively long, the fairness guaranteed by Article 21 of the Constitution of India would come into play.

In this regard, reference is being made to the law laid down by the Hon'ble Supreme Court in the context of right to speedy trial under Article 21 of the Constitution of India on the following decision:- **Akhtari Bi Vs. State of M.P., (2001) 4 SCC 355, Surinder Singh Alias Shingara Singh vs. State of Punjab, (2005) SCC (Crl) 1674, P. Ramachandra Rao vs. State of Karnataka, (2002) 4 SCC 578, Babu Singh and others vs. State of U.P., (1978) 1 SCC 579, Takht Singh and others vs. State of M.P., (2001) 10 SCC 463; Special Leave to Appeal (Crl) No.2356 of 2010, Kushal Singh vs. State of U.P. (2JJ.) and Fazal vs. State of Uttar Pradesh, (2012) 5 SCC 752.**

Having heard learned counsel for the parties and after perusing the

record of the case, it transpires that the appellant is behind the bars for 03 years 04 months and 14 days as on 21.08.2024. 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 13 out of 20 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/appellant. Keeping the appellant 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.

Ergo, I am inclined to allow the prayer of the appellant. Accordingly, the present appeal is allowed. The appellant-Tillu @ Chhotu is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of the concerned Illaqa Magistrate/Trial Court/Duty Magistrate.

The present appeal seeking regular bail to the appellant is allowed solely on the ground of long custody already undergone by him and without commenting on the merits of the case lest it may prejudice the outcome of the case pending before the 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

22.08.2024

Neha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No