



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

CRM-M-25016-2024
Date of decision: 25.07.2024

Ajit Yadav

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manish Soni, 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.184 dated 26.11.2022 (Annexure P-1) under Sections 323/506 of IPC and Section 6 of POCSO Act, 2012 registered at Police Station Bajghera, District Gurugram.

The FIR (*supra*) was lodged on the statement of the complainant, who is a social worker of the Earth Saviour Foundation, Bandhwar Village, Gurugram, by alleging that on 26.11.2022, she received information from Mobile Phone No. XXXXXX3171 to the effect that a girl child 'S' aged 15-16 years was being abused by her father and informant disclosed her name as DS. Thereafter, they took the victim child to the Police Station and on enquiry, the victim child revealed that her step-father/accused/petitioner was committing rape upon her for the last four years and criminally intimidating her of dire consequences in case of disclosing this to anyone and on her resistance, applicant/accused used to beat her up and the victim child also disclosed that the accused/petitioner committed rape upon her last time on 28.10.2022 and



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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 and the allegations made by the victim are too implausible and far fetched as the petitioner, being father of the victim, was opposing her relationship with one, Prince, with whom she had eloped and presently, she is residing with Prince and it is not believable that the petitioner would exploit the victim when he is residing in the house with four more children along with his wife. The prosecution has not cited the wife of the petitioner as one of the witness and even the medico legal report does not corroborate the allegation levelled against the petitioner. He further submits that petitioner is the only bread earner of his family and he was working in Uttarakhand and used to visit his family during holidays. Petitioner is behind the bars since 26.11.2022.

The learned State counsel has filed 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 serious allegations against the petitioner and he is accused of sexually exploiting his own daughter, 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



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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 for 01 year 05 months & 25 days as per custody certificate. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. 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-Ajit Yadav 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

25.07.2024

<i>Neha</i>	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No