



207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25823-2024 (O&M)
Date of decision: 24.05.2024

HARPREET SINGH

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Abhinav Gupta, Advocate
for the petitioner.

Mr. Rishabh Singla, AAG Punjab.

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. 58 dated 12.09.2023 registered under Sections 376 and 506 of Indian Penal Code, at Police Station Women Cell, District Bathinda.

2. FIR(supra) has been registered on a complaint made by the prosecutrix alleging therein that Harpreet Singh (petitioner herein) is acquainted with her for about last one and a half years and doled out a promise of marriage and on the pretext of performing marriage, committed sexual intercourse with her numerous times. His parents also kept talking with her who also assured her that they would perform her marriage with Harpreet Singh. When she told Harpreet Singh to perform marriage, he refused and told her that his mother was not agreeable. Thereafter, Harpreet Singh visited her house and told her that if she did not marry him he would consume poison and write suicide note against her. On this, Hapreet Singh took her to his house on 20.06.2022, where his mother physically assaulted her and Harpreet Singh refused to perform marriage with her and started threatening her. She further



alleges that Harpreet Singh has been taking her to his house numerous times. She also gave a complaint to PS Nehianwala on 13.11.2022 but no action was taken against them and on 20.11.2022, she was called to the Police Station where a compromise was effected and they asked for one and a half month to perform marriage of Harpreet Singh with her. However, they deliberately wrote incorrectly in the compromise that she was mentally upset. Ultimately, he reneged from his promise to perform marriage with her. She further alleges that accused are wrongly proclaiming that her father had obtained a sum of Rs.30 lacs from them.

3. Learned counsel for the petitioner *inter alia* contends that admittedly, the petitioner and prosecutrix are major and they came into contact with each other through a social medial platform i.e. *Instagram*, and thereafter a consensual relationship was established between them. Thereafter, they had developed intimacy and decided to perform marriage, however, the petitioner then came to know that the complainant remains under mental stress and anxiety and a compromise was effected between the parties on 20.11.2022 and it was agreed in the same compromise that the complainant would first get her treatment done for the said mental stress and then after a period of three and half months, they will perform marriage. It is further contended that it would be moot point to be determined by learned trial Court as to whether consent of the complainant was voluntary or it was obtained by the petitioner on false pretext of marriage. Learned counsel further relies upon the judgments passed by Hon'ble Supreme Court in ***Pramod Suryabhan Pawar Vs. State of Maharashtra and Another*** AIR 2019 SC 4010 and ***Deepak Gulati Vs. State of Haryana*** AIR 2013 SC 2071. It is further contended that investigating agency



has already concluded the investigation and filed the final report under Section 173 Cr.P.C. before the learned trial Court.

4. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that he has exploited the complainant on the false pretext of marriage.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is in custody since 14.09.2023 and investigating agency has filed the final report under Section 173 of Cr.P.C. before the learned trial Court on 09.12.2023 and trial of the case is likely to take long time to conclude as there are total 20 prosecution witnesses and none has been examined so far. 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-Harpreet Singh 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 24, 2024

Ajay Goswami

(i) Whether speaking/reasoned

(ii) Whether reportable

Yes/No

Yes/No

(HARPREET SINGH BRAR)

JUDGE