



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

CRM-M-28355-2024
Date of decision: 10.07.2024

Resham SinghPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sukhbir Maandi, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

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.29 dated 21.01.2023 under Sections 363/366-A/376 of IPC and under Section 4 of POCSO Act (Section 506 of IPC added later on vide Rapat No.34 dated 23.02.2023), registered at Police Station Goindwal Sahib, District Tarn Taran.

The FIR (*supra*) was lodged on the allegations that on 16.01.2023, after dinner, they went to sleep. Her mother-in-law who was ill, called her to answer nature's call and when the complainant woke up, she saw her daughter/prosecutrix aged about 13 years was not present on her cot. She along with Talwinder Singh tried to search her but could not trace her. On next morning at about 06:00 A.M., her daughter/prosecutrix came back to the house weeping and told the complainant that when she had gone to the washroom, Resham Singh (the petitioner herein) forcibly took her to the room of his house where he outraged her modesty and also threatened her with dire consequences if she tell the same to anyone and thus, the instant FIR got registered.



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Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. The allegations contained in the FIR are not believable and there is a delay of five days in registration of the FIR (*supra*). Moreover, the material witnesses have been examined and the prosecutrix and other private witnesses have not supported the version of the prosecution and have been declared hostile by the learned Public Prosecutor. He further submits that the petitioner is behind the bars since 22.01.2023.

the learned State counsel has filed a short 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 he is the main accused and involved in a heinous crime and as such, he is not entitled to the concession of regular bail.

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."



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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 22.01.2023. 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 03 out of 15 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/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-Resham Singh 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

10.07.2024*Neha*

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