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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29118-2024 (O&M)
Date of decision: 04.07.2024

Sukhbir Singh @ Sukh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Arora, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in case bearing FIR No.192 dated 22.06.2023 under Sections 363 & 366-A of the Indian Penal Code, 1860 (offence under Section 376 of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 added later on), registered at Police Station City Tarn Taran, District Tarn Taran.

2. The present FIR was registered on the statement of complainant Charanjit Singh, on the allegations that he is running an E-Rickshaw and having one daughter-prosecutrix and her date of birth is 25.12.2008. On

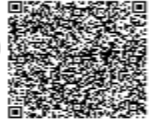


20.06.2023, at about 08.30 a.m., his daughter-prosecutrix was alone in the house and someone had enticed her away on the pretext of marriage. He tried to trace her out but was not able to find her.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the present case. There is no corroboration in the shape of medical evidence to the case set up by the prosecution. The victim-prosecutrix refused to undergo the medical examination. The material witnesses have been examined by learned trial Court and the complainant, victim-prosecutrix and her mother have not supported the case of the prosecution and all of them have been declared hostile by learned Public Prosecutor. The petitioner is behind bars since 17.07.2023; he is not involved in any other case and trial of the case has not made much progress till date, as out of total 22 prosecution witnesses, only 03 have been examined.

4. *Per contra*, learned State counsel, on instructions from ASI Dilbag Singh, opposes the prayer for grant of regular bail to the petitioner on the ground that the petitioner is main accused and he is accused of heinous crime. As such, he is not entitled to regular bail. However, he could not controvert the fact that the petitioner is not involved in any other case.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind bars since 17.07.2023 and the trial of the case is progressing at snail's pace as only 03 out of 22 prosecution witnesses have



been examined so far. The culpability, if any, would be determined at the time of trial. 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.

6. A two Judge Bench of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51***, with respect to prevailing conditions of undertrial prisoner in India has observed as under: -

“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.”

7. In view the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Sukhbir Singh @ Sukh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

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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.

04.07.2024
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[HARPREET SINGH BRAR]
JUDGE

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