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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30931-2024

Date of decision: 05.07.2024

Jarmanjeet Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Vivek Salathia, 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.138 dated 25.12.2023 under Sections 376/506 of IPC (added later on vide Rapat No.18 dated 09.04.2024) (Annexure P-1) registered at Police Station Ghuman, District Gurdaspur.

The FIR (*supra*) was lodged on the basis of an application moved before Human Rights Commission, Chandigarh by the prosecutrix, wherein, she stated that about one and half years ago, the accused/petitioner told her that he had her one obscene video of taking a bath and if she would make physical relations with him, he would not viral the same and if she would deny to develop physical relations with him, he would viral the said video and he forcibly and repeatedly committed rape upon her on the gun point. It is further alleged that when she disclosed this to her family and her husband, they reported the matter to the Police Station Ghuman and, thus the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the



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prosecutrix is major and refused to undergo medical examination. He further submits that she has alleged that one and a half years prior to the registration of the FIR (*supra*), the petitioner has made an obscene video of the complainant/prosecutrix and after threatening her, he exploited her physically. It is further contended that there is no material to corroborate the case set up by the prosecution. Even the alleged obscene video has not been found to have existed. In fact, the petitioner and the prosecutrix are neighbours and due to dispute between the petitioner and the husband of the complainant, the FIR (*supra*) has been registered.

The learned State counsel has filed the 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 is involved in heinous crime. He further submits that there is sufficient material to prove his complicity in the present case. However, he 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 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



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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 since 24.02.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 20.05.2024 and trial of the case has not made much progress as out of 15 prosecution witnesses none has 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-Jarmanjeet 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

05.07.2024

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