

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

CRM-M-31084-2024
Date of decision: 08.08.2024

Versus

State of Haryana and another ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Rajesh Lamba, Advocate
for respondent No.2.

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.34 dated 03.05.2024 under Sections 498-A/506/34 of IPC (Sections 376(2)(n)/418 of IPC added later on) registered at Police Station Women, Faridabad, Haryana.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that she came in contact with the accused/petitioner who is working as Educational Counsellor and thereafter, they started taking with each other. It is further alleged that the accused/petitioner also introduced the complainant/prosecutrix with his mother who assured the complainant that her marriage would be performed with her son and, thereafter, on the false pretext of marriage, he committed rape upon the complainant repeatedly followed by dilly-dallying the matter on one pretext or the other and lastly refused to marry

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her. Thereafter, the complainant filed a complaint in Police Station Women, Sector 16, Faridabad on 12.12.2019. During the pendency of the said application, the accused/petitioner along with his parents came at the house of the prosecutrix and stated that he is ready to perform marriage with her. On 15.12.2019, their marriage was solemnized in Arya Samaj Mandir, Ballabgarh and thereafter, he kept the prosecutrix in a Hotel and thereafter, in a rented accommodation and on 13.02.2020, when the prosecutrix return from her job, then guard gave keys of rented accommodation to her and told her that the accused/petitioner left along with his goods. Thereafter, in December, 2020, he filed a divorce petition in the Court and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the marriage between the petitioner and the complainant had taken place on 15.12.2019. Thereafter, the petitioner filed a divorce petition in December, 2020. The FIR (*supra*) was registered on 03.05.2024 on the complaint made in November, 2023 which is after a delay of three years from the date when the petitioner and the complainant started living separately. Initially, only Section 498-A was added, later on, the complainant sought to revive her complaint made on 12.12.2019 in which allegations of rape was made against the petitioner on false pretext of marriage and offence under Section 376 of IPC was added. He further contends that the complainant is 30 years old well qualified lady and petitioner along with his entire family members has been falsely implicated in the present case.

The learned State counsel assisted by learned counsel for the complainant 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



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ground that the petitioner has spoiled the life of the complainant and from the very inception, his intention was to cheat the complainant and he continued to sexually exploit the complainant on false pretext of marriage.

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."

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 19.05.2024 as per custody certificate. 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 out of 17 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-Sumit Verma 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

08.08.2024
Neha

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