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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31416-2024

Date of decision: 10.07.2024

Ravi

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Raman Chawla, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

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.817 dated 22.09.2023 under Sections 346/323/344/376(2)(n)/506/120-B of IPC registered at Police Station Barwala, District Hisar.

The FIR (*supra*) was lodged on the allegations that on 21.09.2023 at about 08:00 A.M., his daughter/victim left home for school and when she did not return home till evening, the complainant searched her in the neighbourhood and inquired about her from the relatives but could not trace her and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner and the prosecutrix were in a consensual relationship as they are having love and affection for each other. Their relationship was not approved by the family of the prosecutrix and as such, both of them eloped and



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performed marriage with each other on 21.09.2023 and they both have cohabited together for 18 days, thereafter, the prosecutrix was taken away by the jurisdictional police authorities from the lawful guardianship of the petitioner and she was produced before the jurisdictional Magistrate where her statement under Section 164 Cr.P.C. was recorded which is available on record as Annexure P-2. It is further contended that the perusal of her statement under Section 164 Cr.P.C. clearly indicates that the prosecutrix went on her own with the petitioner and she does not want any action against him and whenever wrong act has been committed with her, it has been done with her consent and petitioner is not involved in any other case and he is merely 21 years of age. The proximity of the age between the petitioner and the prosecutrix requires sympathetic consideration.

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 petitioner is the main accused and he has wrongfully confined the prosecutrix for almost two weeks and repeatedly, committed rape upon her. 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 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 16.11.2023 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 32 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-Ravi 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