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

CRM-M-31429-2024

Date of decision: 10.07.2024

Karandeep Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. G.S. Salana, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

At the very outset, the learned State counsel, on instructions from SI Santokh Singh, submits that during investigation, the offence under Section 366-A of IPC was deleted and Section 366 of IPC was added vide DDR No.8 dated 08.06.2024.

In view of the deletion and addition of the offences, the Registry is directed to make the necessary correction and add Section 366 of IPC in the head note and prayer clause of the petition.

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.29 dated 04.04.2024 under Sections 363/366-A of IPC (Section 366-A of IPC was deleted later on and Section 366 of IPC was added later on) registered at Police Station Amargarh, District Sangrur (Annexure P-1).

The FIR (*supra*) was lodged on the statement of the complainant, namely, Gurmeet Singh @ Talor, who stated that he is a labourer and his marriage was solemnized with Gurpal Kaur on 19.11.2000. Out of this

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wedlock, four daughters are born. His eldest daughter is Kamaljit Kaur aged about 21 years, younger to her is daughter, namely, Gagandeep Kaur aged about 19 years, younger to her is daughter/victim aged about 14 years and youngest is daughter, namely, Ravneet Kaur aged about 07 years. His victim daughter was born on 30.07.2009 and she has studied upto 8th standard and now she remained in the house alone to look after her youngest sister, Ravneet Kaur, who is handicapped. On 30.03.2024, the complainant along with his wife went for some work. At about 04:30 P.M., his mother, namely, Mukhtiar Kaur called from the phone of her neighbour and informed that his victim daughter has left the house at 10:00 A.M. and not returned yet. When he came back to his house, he searched for the victim daughter 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 having love affair and their relationship was consensual in nature which was not approved by the family of the prosecutrix, as such, the complainant got registered the FIR (*supra*) and the prosecutrix left her house on 30.03.2024 and she was recovered after eight days. It is further contended that the prosecutrix was produced before the concerned jurisdictional Magistrate and her statement under Section 164 Cr.P.C. was recorded and in her statement she completely exonerates the petitioner and has levelled no allegation against the petitioner. He further submits that the Investigating Agency has already concluded the investigation and presented the final report.

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 the petitioner has enticed away



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the daughter of the complainant and kept her for eight days and he is the main accused. 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 08.04.2024 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 14 prosecution witnesses none has been examined so far. The culpability, if any, would be determined at

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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-Karandeep 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