

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

CRM-M-33497-2024

Date of decision: 19.07.2024

Sahil Chaudhary

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Malik, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, 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.51 dated 05.03.2024 under Sections 376(2)(n)/313 of IPC registered at Police Station DLF, Phase III, Gurugram.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that in July, 2023, she befriended the accused/petitioner online. The accused convinced her to move to Gurugram. On 04.09.2023, she came to Gurugram and met the accused/petitioner who arranged a rented house. Despite her refusal, on 08.09.2023, he established physical relationship with her against her will and continued to engage in developing physical relations with the complainant on the pretext of marriage. When she resisted, he threatened to consume poison and send a video to her family, coercing her into compliance. Eventually, he sent her back to her village saying that she could only return when they were to marry. On 27.02.2024, she came back to Gurgaon and called the accused and he told her that he could not marry her due to religious differences.



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Learned counsel for the petitioner *inter alia* contends that petitioner and the prosecutrix came into contact with each other on a dating app and, thereafter, they established relationship and they lived together in a live-in relationship. The alleged incident had occurred between 08.09.2023 and 13.11.2023 and the FIR was registered after an inordinate delay on 05.03.2024. He further submits that the petitioner has never promised her to marry as both of them are from different religion and belongs to different States.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that the petitioner has sexually exploited the prosecutrix on the pretext of marriage and after some time, he refused to marry her, as such, the consent of the prosecutrix was obtained by fraud.

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 18.03.2024. 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 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-Sahil Chaudhary 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

19.07.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No