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

CRM-M-33433-2024

Date of decision: 19.07.2024

Pushkar Anand

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Ms. Apoorva Arya, 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.201 dated 28.03.2024 under Sections 323/406/376(2)(n) of IPC registered at Police Station Sector 10, District Gurugram.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that she met the accused/petitioner on Shadi.com in March 2020 and he promised to marry her and on the pretext of marriage, he continued to establish physical relations with her since the year 2020 and he was abusing her physically and mentally. It is further alleged that the accused/petitioner also took money from her for his business purpose and he has been using her for the last 3-4 years by promising to marry her and when she asked for her money, he told her that neither he would marry her nor return her money and if she asked him for money again and again, she would face dire consequences. She was living with the accused in live-in relationship since September, 2020 and when she talked about her money, he started fighting with her and resorting to physical violence. Further, it is alleged that the complainant had given an



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amount of Rs.20-25 Lakh to the accused/petitioner through cash, UPI and bank transfer and he refused to marry her and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the prosecutrix is major and mature lady of 28 years of age and admittedly, the petitioner and the complainant/prosecutrix were in a live-in relationship for the last so many years and they were business partners. Reliance in this regard is placed on Annexure P-5 i.e. the registration certificate of the Company. She further submits that they had intention to marry each other, however, due to losses suffered by the petitioner, a dispute arose between them. Investigating Agency has only presented selective CCTV footage before the Court and conveniently withheld the material which shows innocence of the petitioner. When the relationship between them soured, the petitioner has been falsely implicated in the present case.

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 not only sexually exploited the prosecutrix on the pretext of marriage but he has also taken substantial amount from her for investment in a business venture and charges were framed and victim is yet to be examined.

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



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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 29.03.2024. 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 23 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-Pushkar Anand 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.

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In case, the petitioner tries to influence the witnesses or approach the prosecutrix, the State would be at liberty to seek cancellation of bail granted to the petitioner.

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*Neha*

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