

208

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33612-2024

Date of decision: 29.08.2024

Anil Sharma

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajesh Nain, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

This second petition has been filed under Section 439 of Cr.P.C. seeking regular bail in case bearing FIR No.293 dated 01.04.2023 under Sections 364-A/389/506 of IPC registered at Police Station Karnal Sadar, District Karnal, Haryana. Earlier petition was dismissed as withdrawn on 14.02.2024.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that on 01.04.2023 at about 11:55 A.M., he received a phone call from an unknown number informing him that his son, namely, Preet who is 09 years of age (at the time of incident) had been kidnapped and demanding ransom of Rs.50 lacs for his release. Thereafter, he received a call on his other number again demanding ransom of Rs.50 lacs for releasing his son and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that her earlier petition was dismissed as withdrawn on 14.02.2024. Thereafter, on 06.05.2024, the victim was examined by the learned trial Court. He further

submits that the complainant and the victim have not supported the case of the prosecution and have been declared hostile by the learned Public Prosecutor. The petitioner is behind the bars for the last 01 year and 03 months and he is not involved in any other case.

The learned State counsel has filed custody certificate dated 28.08.2024 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 there are serious and specific allegations against the petitioner and he is not entitled to any concession of bail. 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 19.05.2023. 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 reached even half way mark as only 04 out of 16 prosecution witnesses have 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-Anil Sharma 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

29.08.2024

Neha

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