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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34261-2024 (O&M)
Date of decision: 24.10.2024

Akashdeep Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Maini, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking regular bail in case bearing FIR No.34 dated 26.04.2024 under Sections 363 & 366 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Qila Lal Singh, Police District Batala, District Gurdaspur.
2. The present FIR was registered on the basis of complaint moved by father of the prosecutrix, on the allegations that he has two children; one daughter and one son. His daughter is 17 years and 02 months of age and she was doing stitching course. On 22.04.2024 at 08.00 a.m., she went to Mata



Sulkhani Bhalie Centre, Village Saranwali, but did not return home. The complainant searched for her, but could not find her. He had belief that some unknown person had kidnapped her.

3. Learned counsel for the petitioner, *inter alia*, contends that there is a delay of 04 days in registration of FIR (*supra*) and age of the prosecutrix is stated to be 17 years and 02 months. However, primary entry with regard to her age has not been procured by the investigating agency. When the prosecutrix was produced before learned jurisdictional Magistrate and her statement was recorded under Section 164 of Cr.P.C. (*now Section 183 of Bharatiya Nagarik Suraksha Sanhita, 2023*), she categorically stated that the petitioner has not committed any wrong with her and currently, she is residing in shelter home, as she refused to go to her parental home. The prosecutrix further stated that she left her parental home on her own to accompany the petitioner. The petitioner is behind bars since 08.05.2024 and the investigation of the case is complete.

4. *Per contra*, learned State counsel, on instructions from ASI Rakesh Kumar, opposes the prayer for grant of regular bail to the petitioner on the ground that the petitioner is alleged to have enticed away daughter of the complainant, as such, he is not entitled to any relief. Learned State counsel produces the custody certificate dated 22.10.2024 of the petitioner in the Court today, which is taken on record. However, he could not controvert the fact that the petitioner is not involved in any other case and the prosecutrix has not

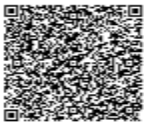


levelled any allegation against the petitioner in her statement recorded under Section 164 of Cr.P.C. (*now Section 183 of BNSS*).

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is in custody for the last 05 months and 11 days as on 22.10.2024 and conclusion of the trial will take long time, as out of 20 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. 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.

6. A two Judge Bench of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51***, with respect to prevailing conditions of undertrial prisoner in India has observed as under: -

“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.”

7. In view of the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Akashdeep Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and learned trial Court shall proceed without being prejudiced by the observations of this Court.

24.10.2024
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[HARPREET SINGH BRAR]
JUDGE

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