

**CRM-M-34617-2024 (O&M)****1****102+203****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-34617-2024 (O&M)****Date of decision: 29.10.2024****YATIN SISODIA****...PETITIONER****V/S****STATE OF HARYANA****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Balraj Gujjar, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

Dr. Malvika Singh, Advocate for
Ms. Deipa Singh, Advocate
for the complainant.**********HARPREET SINGH BRAR J. (ORAL)****CRM-41017-2024**

This is an application under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking permission for placing on record the MLR dated 01.04.2024 of prosecutrix issued by Civil Hospital, Faridabad as Annexure P-13.

For the reasons mentioned in the application, same is allowed and MLR of prosecutrix is taken on record as Annexure P-13, subject to all just exceptions.

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1. The petitioner is seeking grant of regular bail in case bearing FIR No. 23 dated 01.04.2024 registered under Sections 376(2)(N), 323, 313, 506 of Indian Penal Code at Police Station Women NIT, Faridabad.

2. FIR(supra) was registered on the statement of complainant Vaishnavi Malik on the allegations that she is doing a private job and they are

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two sisters and she is the elder sister. On 9 May 2019, on her birthday she met Yatin Sisodiya (petitioner herein) and at that time Yatin took her phone number and they started talking to each other about their career and in the month of October 2022 they both started taking coaching of digital marketing at Connaught Place, Delhi and they became good friends and thereafter he started visiting at her house regularly. One day Yatin came to drop her at her home and nobody was at home and Yatin made excuse and came to her home and he made physical relation with her against her wishes. When she asked Yatin that why did he do this to her then Yatin told her that he wants a girl like her. He wants to marry the complainant. Then Yatin took her to OYO Hotel Renaaldi NIT-1 and Hotel Kasa Lusa situated at Sector 21 Faridabad, and after giving promise to marry her, he again made physical relations against her wishes. In the meantime, the complainant got pregnant and Yatin got aborted her pregnancy. On 16th December 2023, Yatin took her on a rented accommodation House No. T3407 Ador Happy Home, Sector 85 Faribadad and told her that his family is not ready for their marriage if they will live together then only they will agree for their marriage and on 29th February 2024 Yatin had beaten her and threatened her that he will kill her and by giving a false trap of marriage and he repeatedly made physical relations against her wishes. On the basis of aforesaid allegations, FIR(supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that complainant-prosecutrix is a mature lady of 22 years of age and there is an inordinate and unexplained delay in registration of FIR(supra) and the petitioner as well as prosecutrix were in consensual relationship and both of them had lived together as live-in partners for more than 05 years and even from the last alleged incident, the FIR(supra) has been registered after a delay



of more than a month. Learned counsel further refers to Annexure P-13, the copy of the medico legal report of the prosecutrix and submits that even the vaginal swabs of prosecutrix have not been taken as the doctor has opined that the alleged incident is an old one. Whether the petitioner has obtained the consent of the prosecutrix under some misconception within the meaning of Section 90 of Cr.P.C., would be a moot point to be determined by the learned trial Court and investigation of the case is complete and the petitioner is behind the bars since 02.04.2024 and not involved in any other case.

4. On the other hand, learned counsel for the complainant opposes the prayer made on behalf of the petitioner on the ground that the petitioner's intention to cheat from the very inception on the pretext of marriage is writ large and petitioner has misused the trust of the complainant-prosecutrix and established physical relations with her on the pretext of marrying her. Even the complainant got impregnated and her pregnancy was terminated and the petitioner has made the arrangement for the same. As such, the petitioner is not entitled for grant of any relief by this Court.

5. Per contra, learned State counsel filed the custody certificate, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that there are serious and specific allegations levelled against the petitioner.

6. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars for last 06 months and 26 days. Trial of the case is progressing at snail's pace as out of total 16 prosecution witnesses, none has been examined so far and the petitioner is not involved in any other case. Culpability, if any, would be determined at the time of the trial.

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 demo cracy, 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, the present petition is allowed and the petitioner-Yatin Sisodia is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

8. 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.

October 29, 2024

Ajay Goswami

(HARPREET SINGH BRAR)

JUDGE

(i)

Whether speaking/reasoned

Yes/No

(ii)

Whether reportable

Yes/No