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

CRM-M-34353-2024

Date of decision: 25.07.2024

Himanshu Bathla

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Rahul Jaswal, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking regular bail in case bearing FIR No.0734 dated 07.12.2023 under Sections 323/34/376(2)(n)/377 of IPC (Section 34 of IPC deleted later on) registered at Police Station Old Industrial Panipat, District Panipat.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that her marriage was solemnized on 20.02.2018 with Gaurav Bhardwaj and out of this wedlock, one male child, namely, Goransh, was born. It is further alleged that the accused/petitioner was living in her neighbourhood at Guru Nanak Pura, Panipat and was aware about the rift/discord in her marriage, therefore, he sent her a message on social site Snapchat and started pretending to love her and showed her big dreams. In November, 2022, the accused/petitioner brought her back from Noida and started filing complaints on her behalf against her husband, Gaurav, on the pretext of marriage. During this period, she was staying with her parents and about 08 months back, the



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accused/petitioner came along with his parents and brother and took me along with him and kept her in a rented room at Adarsh Nagar, Panipat. Further, the accused has developed physical relations with her on the delusion of marrying her. The accused used to drink liquor with his friends till late night and under the influence of liquor, he committed illicit acts with her and the parents and brother of the accused/petitioner consoled her every time that they will get solemnized her marriage with the accused/petitioner and took all her bangles, chain, earrings and bracelet from her by saying that they will return the same at the time of her marriage with the accused/petitioner. It is further alleged that on 04.12.2023, the accused/petitioner got filed her case of divorce with Gaurav with mutual consent in Panipat Court. Thereafter, the petitioner along with her parents and brother came to the rented room and gave severe beatings to the complainant and told her to stop chasing the petitioner and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the prosecutrix is a mature lady of 26 years of age having one child and she was having consensual relationship with the petitioner and both cohabitated together as live-in partners. Even the prosecutrix has executed an agreement regarding live-in relationship with the petitioner as discernible from Annexure P-1 and both of them intended to marry with each other. However, a dispute arose when the prosecutrix refused to take divorce from her first husband and due to this, the petitioner and his family members have been falsely implicated in the present case. Further, the Investigating Agency has exonerated other family members of the petitioner and petitioner is behind the bars since 15.03.2024 and the Investigating Agency has already concluded the investigation and filed



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final report under Section 173 Cr.P.C. before the concerned jurisdictional Magistrate.

The learned State counsel has filed 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 there are specific allegations against the petitioner and he is accused of sexually exploiting the prosecutrix after consuming liquor and also beaten her. She further submits that the petitioner is involved in one more 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 for 04 months and 09 days as per custody certificate. 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 16 prosecution



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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.

Keeping in view the law laid down by the Hon'ble Supreme Court of India in 'Prabhakar Tewari Vs. State of U.P. and another' 2020 (1) R.C.R. (Criminal 831) and 'Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another', 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

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-Himanshu Bathla 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

25.07.2024

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