



CRM-M-36099-2024

-2-

forcibly put his hand inside her shirt and started touching her inappropriately. When she stopped him to do so, he extended threats to her due to which she remained silent. On the way back to coming home, he asked her to sit in the front seat and again started doing obscene acts with her and threatened her to kill her and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and there has been a difference in the stand taken by the prosecutrix in initial version and her subsequent statement recorded before the jurisdictional Magistrate under Section 164 Cr.P.C. and the allegation levelled by the prosecutrix are too far fetched and implausible to have taken place during broad day light in four wheeler in the presence of other passengers. He further submits that there is a delay of ten days in the registration of the FIR which creates serious dent in the case set up by the prosecution. Investigating Agency has already concluded the investigation and presented the final report and the offence under which the FIR is registered is punishable upto five years.

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 serious and specific allegations against the petitioner, 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 12.03.2024 as per custody certificate. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 16.04.2024 and trial of the case has not even reached halfway mark as only 02 out of 13 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-Baljinder Singh 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

02.08.2024
Neha

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