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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37233-2024 (O&M)
Date of decision: 07.08.2024

Harshdeep Singh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rakesh Gupta, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking regular bail in case bearing FIR No.92 dated 25.04.2023 under Sections 363, 366, 384, 506, 34 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Panjokhara, District Ambala.
2. The present FIR was registered on the basis of a complaint moved by father of the victim on 25.04.2023, with the allegations that one Varinder had allured his daughter to accompany him. On 29.04.2023,

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daughter of the complainant was recovered from Kundla Railway Station, UP and she refused to get her medically examined and claimed that nothing wrong had been done with her and her statement under Section 164 Cr.P.C. was recorded. Thereafter, on 01.05.2023, Sections 384 & 506 of IPC read with Section 34 of IPC were added and the petitioner along with co-accused Varinder were arrested and recovery of the amount withdrawn from ATM was made.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner is not the main accused. In fact, he was helping co-accused Varinder by providing the motorcycle and also in drawing the amount from ATM. Moreover, age of the victim-prosecutrix is 20 years. The petitioner was initially granted bail by learned Additional Sessions Judge, Ambala vide order dated 07.06.2023 (Annexure P-2). The prosecutrix also refused to get her medical done and she claimed in her statement under Section 164 Cr.P.C. that no wrong act had been committed with her and the petitioner has been involved in the present case on the basis of disclosure statement. On 09.01.2024, when the case was fixed before learned trial Court for framing of charge, the petitioner could not appear, as he was in Rajasthan. On 13.06.2024, the petitioner appeared before learned trial Court and filed an application for surrendering and since then, he is in custody and his bail application was declined by learned trial Court vide order dated 19.06.2024 (Annexure P-5).

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4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that the petitioner failed to appear before learned trial Court and he remained absent for almost 05 months and as such, he is not entitled to any relief.

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 behind bars since 13.06.2024 and the trial of the case will take long time in its conclusion, as none out of total 20 prosecution witnesses 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

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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 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 Harshdeep 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 the trial Court shall proceed without being prejudiced by observations of this Court.

[HARPREET SINGH BRAR]
JUDGE

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No