



209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36629-2024

Date of decision: 06.08.2024

Lakhwinder Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Jaskirat Singh Arora, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

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.0050 dated 16.05.2024 under Sections 363/366-A of IPC registered at
Police Station Punjab Agricultural University (PAU), District Police
Commissionerate, Ludhiana.

The FIR (*supra*) was lodged on the statement of the complainant
by alleging that on 12.05.2024 he along with his family went to sleep after
having dinner. When they woke up at 05:00 A.M. in the morning on
13.05.2024, he saw that his elder daughter, namely, Jaspreet Kaur was not at
home. He searched her everywhere but could not trace her. It is further alleged
that the complainant had suspicion over Lakhwinder Singh (the petitioner
herein) that he had enticed away her daughter by alluring her on the pretext of
marriage and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that there is



CRM-M-36629-2024

-2-

a delay of 03 days in the registration of the FIR (*supra*) which creates serious doubt on the case set up by the prosecution. Further, no offence under Sections 363/366 of IPC is made out. The daughter of the complainant was produced before the jurisdictional Magistrate and her statement under Section 164 Cr.P.C. was recorded. He further submits that the victim/prosecutrix has herself categorically stated in her statement before the Magistrate that she went on her own with the petitioner. Moreover, nothing tangible has been found in the medical examination to indicate the complicity of the petitioner with regard to any sexual assault and the Investigating Agency has already concluded the investigation and presented the final report. He further submits that the petitioner is a student of 23 years of age and is having clean antecedents.

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 the petitioner is the main accused and he has enticed away the daughter of the complainant who was minor at the time of incident.

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."



CRM-M-36629-2024

-3-

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 18.05.2024. 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 15 prosecution 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.

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-Lakhwinder 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

06.08.2024
Neha

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