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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38103-2024

Date of decision: 12.08.2024

Govind

...Petitioner

Versus

U.T. of Chandigarh

...Respondent

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

Mr. Manish Bansal, P.P., U.T. Chandigarh.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.41 dated 18.04.2024 under Sections 306/452 of IPC registered at Police Station Industrial Area, District Chandigarh.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that when her daughter, namely, Mansi, was studying in Government School, Sector 27, one boy, namely, Govind (the petitioner herein) used to harass her. In the year 2018, her daughter told her elder sister about the same, on account of which, they both went to the house of the accused/petitioner and met his parents, who assured them that the accused/petitioner would not harass her daughter in future. It is further alleged that one night at about 03:00 A.M., she heard a noise regarding falling of something in the verandah and when the complainant reached there along with her husband, she saw that the accused/petitioner was standing at the door of



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Mansi and she was pushing him out of the house. The accused started bullying them and people from neighbourhood came there. The petitioner tried to ran away but the people caught hold of him on the road and husband of the complainant made phone call to police. After this incident, daughter of the complainant became upset and after she went in her room to asleep on that night, her elder sister went to the same room to see her but found that the door was locked from inside. When the victim did not open the door, her elder sister pushed the door and saw that the victim had hanged herself and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner and the deceased were in love with each other since their school days and their relationship was opposed to her parents and the essential ingredient to constitute abetment within the meaning of Section 107 of IPC is clearly missing. There is nothing on record to indicate how and in which manner, the petitioner has abetted the suicide of the deceased. In fact, the petitioner was deceitfully called at the house of the complainant and, thereafter, he was beaten up and in this regard, he was also taken into custody. He further submits that investigation of the case is complete and the petitioner 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 petitioner was caught when he was trying to enter the room of the deceased and his conduct has compelled the young daughter of the complainant to commit suicide.

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 19.04.2024 as per custody certificate. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. 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-Govind 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

12.08.2024
Neha

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