

CRM-M-38999-2024 (O&M)

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**203 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-38999-2024 (O&M)
Date of Decision: 21.11.2024

GURNAM SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Dhivya Jerath, Advocate for
Mr. Navjot Singh, Advocate for the petitioner.
Mr. Sandeep Kumar, DAG Punjab.

Harpreet Singh Brar J.(Oral)

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in case bearing FIR No. 32 dated 08.03.2024 registered under Sections 376, 354-C and 384 of Indian Penal Code and Sections 67 and 67(A) of Information Technology Act, 2000 at Police Station Dinanagar, District Gurdaspur.
2. FIR(supra) was registered on the basis of statement of prosecutrix to the effect that Gurnam Singh (petitioner herein), who is son-in-law of her paternal aunt and his wife Simran were her relatives. The prosecutrix was married and had two sons and her husband is a business man and due to relatives, they were visiting terms in their houses and Gurnam Singh kept evil eyes upon her, but she kept on tolerating his obscene acts due to relationship. The prosecutrix further stated that about

one and half years ago, Gurnam Singh blackmailed her and his wife took money and other articles from her by blackmailing her and he had made physical relations with her by blackmailing her and prepared her obscene videos. The accused Gurnam Singh is retired from Army and presently he is doing private job. On the basis of aforesaid allegations, FIR(supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case as the alleged occurrence, as per the case set up by the prosecution, took place between 14.04.2021 to 22.07.2022 and the FIR(supra) was registered only on 08.03.2024. The delay in reporting the matter to the jurisdictional police authorities creates a serious doubt on the case set up by the prosecution. The petitioner as well as complainant were married and having children and they were in consensual relationship and FIR(supra) was registered only after husband of the prosecutrix learnt about their relationship and petitioner is behind the bars since 01.06.2024 and investigation of the case is complete.

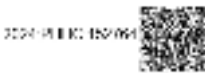
4. Per contra, learned State counsel filed the custody certificate, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that petitioner has made certain obscene photographs and videos of the prosecutrix and he was blackmailing the prosecutrix by threatening her to circulate the same and he has been demanding money from the complainant-prosecutrix. However, he could not controvert the fact that petitioner is not involved in any other case.

5. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner is behind the bars since 24.05.2024 i.e. for a period of 05 months and 26 day as on 19.11.2024 and out of total 23 prosecution witnesses, none has been examined so far, therefore, the conclusion of trial is likely to take considerable long time. Culpability, if any, would be determined at the time of the trial. 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."

6. In view of the above, the present petition is allowed and the petitioner-Gurnam Singh is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.



7. 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

21.11.2024
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No