



for them, but could not trace them. It was further stated by the complainant that she had firm belief that her grand-daughters were enticed/allured away by some unknown persons on the false pretexts of marriage. Hence, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner was not named in the FIR (supra) and the same was registered after a delay of 02 days of the alleged occurrence. In fact, the prosecutrix has solemnized her marriage with one Gagandeep Singh, against whom, after solemnizing the marriage, a case bearing FIR No.316 dated 20.11.2023 under Sections 363, 366 of IPC at Police Station Civil Lines Batala, District Batala was got registered on identical allegations, which is available on record as Annexure P-2, which clearly proves the *modus operandi* of the complainant. Further, the perusal of Annexures P-1 and P-2 would clearly indicate that allegations in both the FIRs are somewhat similar and the petitioner is not involved in any other case. On the last date of hearing, the case was adjourned on the ground that charges are yet to be framed, however, in spite of the fact that investigation is complete, the trial Court has not even framed the charges till date. Learned counsel further submits that there is no medical evidence to corroborate the case set up by the prosecution. The prosecutrix has refused to undergo medical examination and her statement as well as the statement of the complainant was recorded and they have signed the same and in this regard, DDR bearing No.27 dated 22.03.2024 at Police Station Civil Lines, Batala was also recorded by the investigation agency. He further submits that there is no allegation against the petitioner with regard to the sexual assault and the case of the petitioner is at parity with Manpreet Kaur @ Neetu, who was granted the concession of regular bail by this Court vide order dated 07.05.2024 bearing



CRM-M No.20445 of 2024, as both of them pressurized the prosecutrix to withdraw her case.

4. *Per contra*, learned State counsel produces custody certificate, which is taken on record and opposes the prayer of the petitioner on the ground that there are serious allegations against the petitioner.

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 the bars for last more than 04 months and 08 days and he is not involved in any other case. The investigating agency has already concluded the investigation and has submitted the final report under Section 173 Cr.P.C. The trial of the case is likely to take long time as out of 16 witnesses cited by the prosecution, none has been examined so far. Further incarceration of the petitioner, without there being the prospect of the conclusion of the trial, in the near future, would be violative of his rights under Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. 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.”

7. In view of the above, the present petition is allowed and the petitioner-Akashdeep 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.

8. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

October 03, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |