

CRM-M-41290-2024
Date of decision: 14.10.2024

...PETITIONER

...RESPONDENT

2. Brief facts of the case of the prosecution are that FIR (supra) was registered on the complaint of prosecutrix "M" on the allegations that the petitioner had physical relations with her, for the last four years, on promise of marriage and now he has left her in midway. She was married with Azad s/o Hari Ram in the year 2003 but unfortunately, in the year 2014, her husband Azad died. Thereafter, she started doing work as bus conductor in a private school where Rajbir s/o Ram Kumar (petitioner) was working as bus driver in school bus in which she was conductor. Thereafter, the petitioner stated that he wanted to marry with her and would take care of her throughout her life. After that he started living with her and had physical relations with her for about four



years on promise that he would marry with her. Several times she asked him for marriage but he avoided the same. Now, the petitioner has deserted her after using her for about 4 years. Now the petitioner and his friend Satyawar are defaming her and extending threat to her life and give abuses. They also threatened her to leave this City otherwise, they would kill her and they made her life hell and lower down her image by stating that she is involved in prostitution. Hence, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and the prosecutrix, in this case, is mature lady of 35 years of age. The relationship between the petitioner and the prosecutrix was purely consensual and petitioner had never promised the prosecutrix that he would marry her. Further, the prosecutrix was earlier married and her husband had passed away in the year 2014. Furthermore, the prosecutrix has refused to undergo the medical examination, as such, there is no corroboration to the case set up by the prosecutrix. Learned counsel further submits that a compromise has been effected between the petitioner and the prosecutrix and she has already given her affidavit in this regard on 22.07.2024 (Annexure P-2). Now, the investigation is complete and final report under Section 173 Cr.P.C. stands submitted before learned trial Court.

4. *Per contra*, learned State counsel produces custody certificate and reply dated 10.10.2024 by way of an affidavit of Geetika Jakhar, HPS, Deputy Superintendent of Police, Jind, Women Safety on behalf of respondent-State, which are taken on record and opposes the prayer of the petitioner on the ground that the petitioner sexually exploited the prosecutrix for over 04 years by taking advantage of her condition, however, she could not controvert the



fact that the petitioner is not involved in any other case.

5. Learned counsel for the complainant/prosecutrix submits that he has no objection in case, the petitioner is granted the relief of regular bail.

6. 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 02 months 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 10 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-Rajbir 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 14, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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