

and Rohit had come to Murthal, Sonapat, where they stayed for two days in a hotel and from there, they went to Hisar and came in contact of Riya Sharma resident of Narela. After that the victim was taken to a hotel at Hisar, where, co-accused-Mukesh met her and told the victim and her friend to drop him at Delhi. On 05.03.2023, Mukesh brought the victim and her friend to Hotel JP Palace, Rewari where petitioner-Naveen, owner of the hotel, met them. On next morning at about 11:00 A.M., petitioner-Naveen came to their room and told them to go to another room. On asking the purpose, petitioner-Naveen told that he had given Rs.10,000/- to Mukesh for getting wrong acts done and if she refuse, she would be killed and confined the victim and other girls to force them to indulge in wrong acts.

Learned counsel for the petitioner *inter alia* contends that two of the co-accused, namely, Mukesh and Birender have been granted the concession of regular bail by this Court vide order dated 11.01.2024 passed in CRM-M-53170-2023 titled as 'Mukesh Vs. State of Haryana' and CRM-M-55059-2023 titled as 'Birender Vs. State of Haryana,' respectively. The trial Court has examined the complainant and four more witnesses who have not supported the case of the prosecution and learned Public Prosecutor has declared them hostile. He further submits that the petitioner is behind the bars since 07.03.2023.

Per contra, the learned State counsel opposed the grant of regular bail to the petitioner on the ground that the petitioner is accused of heinous crime and is involved in two more cases, as such, does not deserve the concession of regular bail.

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 perusing the record of the case, it transpires that the petitioner-Naveen is behind the bars since 07.03.2023. 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 only 07 out of 26 prosecution witnesses have 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/petitioners. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of their rights under Article 21 of the Constitution of India.

Keeping in view the facts and circumstances of the case and the fact that the likelihood of trial being prolonged, 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-Naveen 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/Duty Magistrate.

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

19.03.2024
Neha

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