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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42107-2024

Date of decision: 03.09.2024

Surender

...Petitioner

Versus

State of Haryana

...Respondent

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

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of BNSS, 2023 seeking regular bail in case bearing FIR No.20 dated 03.05.2024 under Sections 376(2)(n)/406/506/201 of IPC registered at Police Station Women Police Station Narnaul, District Mahendergarh, Haryana.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that she was working as a Nurse during the period 2021-2024 and one day, the accused/petitioner gave a telephonic call to her and asked her to be his friend to which she refused. Thereafter, he pressurized her and allured her on the pretext of securing a government job, on account of which, she gave her consent and started talking to him. It is further alleged that on one occasion, she gave Rs.2 lakh to the accused/petitioner on his demand and when she asked him to return the money back, he started threatening her to send call recordings to her husband. Further, the accused/petitioner forced her to make her obscene videos and on 28.12.2022, he called her at a liquor vend and committed rape



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upon her and thereafter, she was raped several times by the accused who also used to make her videos and, thus, the instant FIR was registered.

Learned counsel for petitioner *inter alia* contends that the prosecutrix is a married and mature lady of 37 years of age and she was in a consensual relationship with the petitioner and there was lot of money transactions between them as the petitioner has been supporting her. Thereafter, she became possessive and wanted to perform marriage with the petitioner. However, when the petitioner refused to marry her, the FIR (*supra*) was registered. He further relies upon the medico legal report of the prosecutrix and submits that nothing tangible has come on record to remotely suggest that the petitioner has subjected the prosecutrix to any sexual assault and he relies upon the transcript of the telephonic conversation (Annexure P-6) between the petitioner and the prosecutrix which clearly indicates that the prosecutrix was having consensual relationship and she has also been receiving money from the petitioner. It is further submitted that only bald allegations have been made with regard to making objectionable video of the prosecutrix by the petitioner. However, during investigation, neither the objectionable material was recovered nor offences under the Information and Technology Act have been added in the FIR. The Investigating Agency has already concluded the investigation and submitted the final report under Section 173 Cr.P.C.

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 there is sufficient material available on record to indicate the complicity of the petitioner and allegations against the petitioner are serious in nature as he has allured the prosecutrix with a false



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promise of getting a Government job and sexually exploited her.

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 25.05.2024 as per custody certificate. 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 out of 17 prosecution witnesses, none has 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/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-Surender 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

03.09.2024
Neha

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