



210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42556-2024 (O&M)
Date of decision: 05.09.2024

SIMRANJIT SINGH

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Meena, Advocate for
Mr. Amit Arora, 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 Bharatiya
Nagarik Suraksha Sanhita 2023 seeking grant of regular bail to the petitioner in
case bearing FIR No. 390 dated 12.09.2023 registered under Section 6 of
Protection of Women from Sexual Offences Act (Amended) 2012, 2019 and
Sections 376-AB, 342 of Indian Penal Code at Police Station Goindwal Sahib,
District Tarn Taran.

2. The FIR(supra) was registered on the statement of complainant
Harpreet Kaur wherein she had stated that she is a house hold lady and having
three children, all studying in Govt. Sr. Secondary School at Fatehabad. The
date of birth of her daughter/prosecutrix S. Kaur (name not disclosed) is
02.07.2015. Her husband is working as labourer with mason at Chandigarh. On
12.09.2023, at about 6:30 AM, her daughter/prosecutrix went to the shop of
Milk (dairy). When she returned back home at about 7:00 AM, she was
weeping and disclosed to her mother that when she was returning back home,
Simranjit Singh (petitioner herein) was standing in front of his house and he
caught her arm and took her in the room of his house and nobody was present
in the house. He removed her clothes and committed bad act with her. She



raised an alarm and then he ran away from the spot. She told the entire occurrence to her husband. On the basis of this statement, the FIR(supra) was registered against the accused-petitioner.

3. Learned counsel for the petitioner *inter alia* contends that case set up by the prosecution is highly improbable and petitioner is behind the bars since 12.09.2023 and further the complainant and prosecutrix, both have been examined by the trial Court and they have not supported the case of the prosecution and they were declared hostile by learned Public Prosecutor. Even when the prosecutrix was subjected to medico legal examination, the petitioner was not named. Moreover, the perusal of MLR of the prosecutrix (Annexure P-2) would reveal that nothing suggestive of any sexual assault has been detected.

4. Per contra, the learned State counsel opposes the prayer made by learned counsel for the petitioner on the ground that there are serious and specific allegations levelled against the petitioner and apart from the testimony of the prosecutrix and complainant, there are sufficient material available on record to prove the complicity of the petitioner in the alleged occurrence and as such the petitioner is not entitled to any relief by this Court.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 14.09.2023 and trial of the case is likely to take long time to conclude as out of total 13 prosecution witnesses, only 2 have been examined so far. Thus, the trial has not even reached halfway mark. Petitioner is not involved in any other case. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the

Constitution of India. Culpability, if any, would be determined at the time of the trial.

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 demo cracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

6. Accordingly, the present petition is allowed. The petitioner-Simranjit 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.

September 05, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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