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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42772-2024

Date of decision: 06.09.2024

Jaspreet Singh @ Karan

....Petitioner

Versus

State of Punjab

...Respondent

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

Mr. Sandeep Kumar, DAG, Punjab.

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.43 dated 26.06.2023 under Sections 64/318/351 of BNS, 2023 (corresponding Sections of IPC are 376/420/506 IPC) registered at Police Station Women Cell, Mohali, District SAS Nagar (Mohali).

The FIR (*supra*) was lodged on the statement of the complainant by alleging therein that she is a divorcee having two daughters and resident of Village Saharanpur and presently, residing in Chandigarh for employment and in Chandigarh, she met the accused/petitioner and he started calling her and slowly they both became intimated to each other. It is further alleged that she along with her two daughters went to the house of the accused/petitioner and he and his family members dominated her into their talks and said how she would manage to live with two minor daughters in a rented accommodation and asked her to give them Rs.5 lakh to buy a new house for her. They also told her that they would get her engaged and later on, marry with the accused/petitioner and



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she has given them Rs.5 lakh, thereafter, the accused/petitioner got engaged with her and the whole expenses of the engagement ceremony was borne by the complainant and after the said engagement, the complainant along with her two daughters started living in the house they purchased after receiving Rs.5 lakh. The family members of the accused/petitioner kept on promising the complainant with regard to her marriage with the accused/petitioner but he did not marry her and she was lured and deceived of Rs.15 lakh on different occasions. It is further alleged that the petitioner asked the complainant to develop physical relations and when she refused, he got her drunk and developed physical relations with her and he used to take *heroin*, on account of which, he had been in custody in Sangrur Jail. Further, the accused/petitioner used to say the complainant that if she will develop physical relations with his maternal uncle, then he will marry her and he along with his family members cheated on her on the pretext of marriage and thus, the instant FIR was registered.

Learned counsel for the petitioner *inter alia* contends that the prosecutrix is a mature and married lady of 35 years of age and she was in a consensual relationship with the petitioner and both of them lived together as live-in partners for more than five years and prior to their relationship, the prosecutrix has been married twice. She has already been examined and the petitioner is behind the bars since 28.06.2023 and it would be a moot point to be decided by the learned trial Court whether the prosecutrix was a consenting party or not.

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 are serious allegations against the petitioner and he is involved in three more cases.

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 28.06.2023. Investigation is complete. Material witnesses have already been examined. 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 04 out of 21 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



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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.

Keeping in view the law laid down by the Hon'ble Supreme Court of India in 'Prabhakar Tewari Vs. State of U.P. and another' 2020 (1) R.C.R. (Criminal 831) and 'Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another', 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

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-Jaspreet Singh @ Karan 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

06.09.2024

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