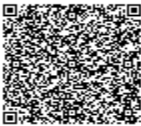


2024:PHHC:119131



205

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43994-2024 (O&M)
Date of decision: 11.09.2024

Amrik Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

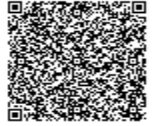
Present: Mr. Arnav Kumar, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.21 dated 29.03.2024 under Sections 376 & 420 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Sadar Rupnagar, District Rupnagar.
2. The present FIR was registered at the instance of the complainant-prosecutrix, on the allegations that she came in contact with the

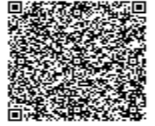
2024:PHHC:119131



petitioner in March, 2021 and they became friends. On the pretext of marriage, the petitioner took her to his aunt's house, where he committed rape upon her. Thereafter, both of them were regularly meeting at the house of petitioner's aunt, where the petitioner used to commit rape upon her. In January, 2022, when she met with an accident and was admitted in Bijendra Multispeciality Hospital, Ropar, she came to know about her pregnancy and on informing about the same to aunt and uncle of the petitioner, they promised her to perform her marriage with the petitioner. On 10.01.2022, the petitioner took her at his house in Ambala and he promised her to marry her. The petitioner withdrew an amount of Rs.35,000/- to Rs.40,000/- from her account and after the money was spent, he gave beatings to her and forced her to give her child for adoption. On 25.03.2022, she gave birth to a baby and the petitioner forced her to sell her baby for Rs.1.00 lac, to which she refused. After coming to house of the petitioner, she was tortured and the petitioner repeatedly asked her to sell her baby. Thereafter, she fled away from house of the petitioner and somehow, reached at her parental home.

3. Learned counsel for the petitioner, *inter alia*, contends that perusal of the FIR (*supra*) clearly indicates that the complainant-prosecutrix was having consensual relationship with the petitioner and they continued their relationship for a long period and both of them got married and they were blessed with a child on 25.03.2022. Copy of birth certificate dated

2024:PHHC:119131

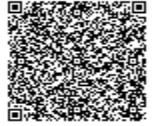


13.06.2022 is available on record as Annexure P-2, according to which, names of the petitioner and the complainant-prosecutrix are recorded as father and mother of the child, respectively. Learned counsel further relies upon photographs of the complainant-prosecutrix in the company of the petitioner. Perusal of the copies of medical record (Annexures P-7 to P-9) clearly shows that the petitioner was getting the complainant-prosecutrix treated during her pregnancy. As such, the petitioner cannot be held liable for the offence under Sections 376 & 420 of IPC. The petitioner is behind bars since 30.03.2024 and he is involved in any other case. The investigation of the case is complete and final report under Section 173 of the Code of Criminal Procedure, 1973 already stands submitted before the jurisdictional Court.

4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that there are serious and specific allegations against the petitioner. Learned State counsel produces the custody certificate dated 10.09.2024 in the Court today, which is taken on record. However, he could not controvert the fact that the petitioner is not involved in any other case.

5. 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 bars since 30.03.2024 and the trial of the case will take

2024:PHHC:119131



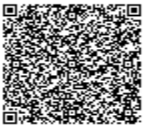
long time in its conclusion, as out of total 19 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

6. A two Judge Bench of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51***, with respect to prevailing conditions of undertrial prisoner in India has observed as under: -

“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 the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of

2024:PHHC:119131



the trial, petitioner Amrik Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

8. 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

11.09.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No