



He also touched her private parts. After that, victim blocked his number from her phone. On 30.03.2024 at about 7:00 PM, petitioner came to her house and gave beatings to the victim and threatened to kill her and also told her to unblock his number from the phone. Hence, the FIR (supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that there is unexplained and inordinate delay of more than 08 months, in the registration of the FIR (supra). As per the case set up by the prosecution, the petitioner is alleged to have taken the victim/prosecutrix to Hotel Honeymoon at Namastey Chowk on 24.07.2023 and sexually exploited her. However, during the investigation, the entries of the aforementioned hotel were checked and it was found that petitioner had never visited the said hotel. It is further contended that in fact, the petitioner was having consensual relationship with the elder daughter of the complainant and he relies upon Annexure P-2 to indicate that the petitioner along with victim/prosecutrix (elder daughter of the complainant) had jointly booked a room in Bluemoon Hotel on 21.01.2024 and their relationship was opposed to the complainant. As such, the petitioner has been falsely implicated in the present case. Petitioner is 22 years of age and he is not involved in any other case.

4. Per contra, learned State counsel opposes the grant of regular bail to the petitioner on the ground that there are serious and specific allegations against the petitioner and prosecutrix/victim has reiterated all the allegations in her statement recorded under Section 164 Cr.P.C. by jurisdictional Magistrate. Learned State counsel produces custody certificate, 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 the bars since 02.04.2024 and he is not involved in any other case. The investigating agency has already concluded the investigation and has submitted the final report under Section 173 Cr.P.C. The trial of the case is likely to take long time, as out of 13 witnesses cited by the prosecution, none has been examined. Further incarceration of the petitioner, without there being the prospect of the conclusion of the trial, in the near future, would be violative of his rights under Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. 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."

7. In view of the above, the present petition is allowed and the petitioner-Sagar 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.

8. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

September 13, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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