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Kaur, came back home crying at about 05:40 P.M. and told her that when she along with her elder sister reached the new petrol pump on Ladowali road, a boy came riding a bike and stopped it in front of their Activa and forcibly took her elder sister with him. The complainant tried to search her everywhere but could not trace her. Then she found that a boy named Deepu had taken her daughter to Pholriwal village on the pretext of marriage and then she narrated the whole story to the Sarpanch of Pholriwal Village and went to the house of Deepu and saw that his house was locked and thus, the instant FIR was registered.

Learned counsel for the petitioner *inter alia* contends that the perusal of the FIR (*supra*) clearly indicates that one boy named, Deepu, has enticed away the daughter of the complainant and petitioner is a household lady and mother of Gopi who is friend of Deepu i.e. the main accused and as far as the role of the petitioner is concerned, she is alleged to have kept the main accused-Deepu and prosecutrix at her home for four days. In fact, the main accused-Deepu was having consensual relationship with the prosecutrix and their relationship was opposed to their family and therefore, they had eloped and petitioner was not aware of the fact that they are not married. He further submits that as many as, 11 persons have been nominated as an accused in the present case. The investigation of the case is complete and final report has already been filed. The petitioner is having clean antecedents.

The learned State counsel assisted by learned counsel for the complainant 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 the statement of the prosecutrix was recorded by the jurisdictional



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Magistrate under Section 164 Cr.P.C. in which she has levelled specific allegations against the petitioner and the complicity of the petitioner is writ large in the facts and circumstances of the case and now another FIR has been registered against the main accused-Deepu.

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 16.04.2024. 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 18 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 her 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-Paramjit Kaur is ordered to be released on regular bail during trial on her 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

19.09.2024

Neha

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No