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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46671-2024

Date of decision: 24.09.2024

Gurcharan Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Ranjodh Singh Sidhu, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.20
dated 03.04.2024 under Sections 354/354-B/354-D/323/149 of IPC and
Sections 67/67(a) of Information Technology Act, 2000 registered at Police
Station Valtoha, District Tarn Taran.

The FIR (*supra*) was lodged on the statement of the complainant
by alleging that her younger son, namely, Akashdeep Singh performed Court
marriage with Ramandeep Kaur, who is daughter of Baldev Singh, residing in
her neighbourhood. Due to this enmity, on 31.03.2024, at about 06:00 P.M.,
Sharanjit Singh @ Sunny, Gurcharan Singh (the petitioner herein) and
Kulwinder Kaur @ Mani along with two unknown persons came in front of her
door and started shouting and when the complainant came outside in the street,
Kulwinder Kaur @ Mani raised *lalkara* and Sharanjit Singh @ Sunny caught
the complainant from her hair and other accused started beating her and the



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petitioner caught her suit from neck and torn it away and disrobed her completely. When the complainant raised alarm, her husband came outside the house and other persons also gathered and seeing them, the accused persons fled away from the spot. It is further alleged that the unknown persons accompanying the accused persons captured the incident by preparing a video of the complainant and made it viral which has defamed her and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that a concocted and false story has been set up by the prosecution. The petitioner is a labourer and he was implicated in the present case being brother of co-accused-Sharanjit Singh @ Sunny and the FIR (*supra*) was registered after a delay of three days of the alleged occurrence which creates serious doubt on the case set up by the prosecution. Moreover, the maximum sentence under which the FIR was lodged is punishable upto 05 years and the petitioner is not involved in any other case.

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 the objectionable material was uploaded by the petitioner and also he torn the clothes of the prosecutrix and video was made viral by the co-accused-Sharanjit Singh @ Sunny on his Instagram ID, however, he could not controvert the fact that the petitioner is not involved in any other case.

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 10.04.2024. 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 21 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 his 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-Gurcharan Singh 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

24.09.2024
Neha

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