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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-46608-2024

Date of decision: 24.09.2024

Ankit

....Petitioner

Versus

State of Haryana

...Respondent

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

Ms. Geeta Sharma, DAG, Haryana.

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.0049 dated 18.02.2024 under Sections 313/323/34/376(2)(n)/506 of IPC registered at Police Station Sector 13/17, Panipat District Panipat.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that she met with the accused/petitioner on Facebook and thereafter, they became friends and he promised the complainant that he will get her and her brother a job. It is further alleged that they used to talk daily and the accused/petitioner asked her for court marriage. On 31.05.2023, the accused/petitioner took the complainant to Panipat from Rohtak and started residing with her at Panipat, thereafter, he developed physical relations with the complainant and told her that he will make his mother agree and take her with him within one year. In the meantime, the complainant got pregnant and the accused/petitioner told her to abort as he will take her with him without any child. Further, he resorted to physical violence and on 09.01.2024 at 08:30



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P.M., her ribs were broken and he threatened the complainant if she will go anywhere, he will kill her and his uncle also extended threats to the complainant by saying that he already has done eight murders and ninth is hers and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the prosecutrix is a mature lady of 30 years of age and she became friendly with the petitioner through Facebook. The perusal of the FIR clearly indicates the same. After becoming friends, the petitioner and the prosecutrix started interacting daily and relationship between them was purely consensual in nature. He further relies upon the judgment dated 06.07.2023 (Annexure P-2) in which the prosecutrix has levelled identical allegations against the accused and when she appeared as PW-3, she did not support the prosecution version *qua* the alleged role of the accused and turned hostile. The same *modus operandi* she has adopted in the present case and she is asking for hefty amount to turn hostile. The petitioner is behind the bars since 22.02.2024 and the Investigating Agency has concluded the investigation and presented the final report.

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 petitioner has not only sexually exploited the prosecutrix on the pretext of marriage but also beaten her up and thus, the accused/petitioner is not entitled to any relief.

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 22.02.2024. 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 12 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-Ankit 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