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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47791-2024 (O&M)
Date of decision: 05.11.2024

Lavli

... Petitioner

Vs.

State of Haryana

... Respondent

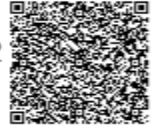
CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Chahal, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

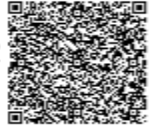
HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') [*now Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS')*] seeking regular bail in case bearing FIR No.31 dated 13.06.2024 under Sections 354-D, 384, 506, 34 of the Indian Penal Code, 1860 (for short 'IPC') (Sections 354 & 341 of IPC and Section 12 of the Protection of Children from Sexual Offences Act, 2012 were added later on), registered at Women Police Station Kaithal.



2. The present FIR was registered on the basis of complaint made by the victims 'A', 'J' and 'S' on the allegations that petitioner Lavli and co-accused Kalia and Bajrangi were harassing them for the last one year and the victims-complainants were tolerating their acts and remained quite keeping in view the honour of their families, as the accused persons tried to develop friendly relations with them and threatened that if they did not do so, they would edit their photographs already uploaded on social media in obscene photographs and would misuse the same. Due to this, the accused persons extracted Rs.25,000/- from the victims-complainants.

3. Learned counsel for the petitioner, *inter alia*, contends that main accused is Ajay and a fake Instagram ID was created by co-accused Kamal @ Kalia. There is no allegation against the petitioner with regard to any sexual harassment. No specific date or time has been mentioned in the FIR (*supra*), when the petitioner harassed the victims. Learned counsel for the petitioner relies upon statement of prosecutrix 'S' (name withheld) recorded under Section 164 Cr.P.C. (*now Section 183 of BNSS*) (Annexure P-3), perusal of which clearly indicates that only allegation against the petitioner is for harassing the prosecutrix by throwing the stones at the windows of her house and by hurling abuses by standing outside her house. The petitioner is behind bars since 14.06.2024 and is not involved in any other case. It is further contended that co-accused Ajay @ Bajrangi has already been granted the



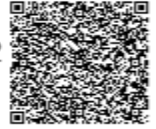
concession of bail by learned Principal Magistrate, Juvenile Justice Board, Kaithal, vide order dated 30.08.2024 (Annexure P-11).

4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that the petitioner has been continuously harassing the prosecutrix and he even disconnected the electricity of the entire street in order to scare her. However, she 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 14.06.2024 and the trial of the case has not even reached halfway mark as only 02 out of 16 prosecution witnesses have 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 of the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Lavli is ordered to be released on regular bail during trial on his furnishing bail/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 learned trial Court shall proceed without being prejudiced by the observations of this Court.

05.11.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No