



208

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47693-2024 (O&M)
Date of decision: 27.09.2024

Karanjit Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Shivender Pal, Advocate for
Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

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.') seeking regular bail in case bearing FIR No.13 dated 11.03.2020 under Sections 354, 341, 506 of the Indian Penal Code, 1860 (for short 'IPC') (Section 376 of IPC added later on) and Section 6 of the Protection of Children from Sexual Offences Act (Amended), 2012 (for short 'POCSO Act'), registered at Police Station Jhander, District Amritsar.
2. The present FIR was registered on the basis of a complaint



moved by the prosecutrix, on the allegations that she was taking computer classes at Amritsar and at that time, one Karan Singh had done wrong thing with her. Said Karan Singh and his mother threatened her to kill her and her brother, if she did not perform Court marriage with him. They also slapped her and abused her. Some time ago, by showing the pistol and threatening to kill her, the accused did wrong acts with her number of times. On 12th September, when somebody came to see her, the accused produced some other lady in her place and got her relation broken. She and her family apprehend danger to their life. As such, legal action was sought against the accused.

3. Learned counsel for the petitioner, *inter alia*, contends that there is 08 months unexplained delay in registration of FIR (*supra*), which creates a serious doubt on the case set up by the prosecution. The prosecutrix was medically examined on 27.06.2020 and nothing suggestive of subjecting her to sexual assault was found. Further, date of birth of the prosecutrix is 14.01.2000 and as such, at the time of registration of FIR (*supra*), she was major and without any justifiable cause, the investigating agency added the offence under the provisions of POCSO Act. The Forensic DNA Test Report (Annexure P-1) is also negative with regard to complicity of the petitioner and it would be a moot point to be decided by learned trial Court whether the petitioner can be held liable for any offence under Section 6 of POCSO Act and Section 376 of IPC. It is further contended that the prosecutrix and her



mother have already been examined and in her statement, the prosecutrix has not levelled allegation against the petitioner. The petitioner is behind bars since 12.09.2023 and is not involved in any other case.

4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner and submits that DDR No.34 dated 01.07.2020 was recorded with regard to date of birth of the prosecutrix, when she produced her school certificate, according to which, she was minor at the time of incident. Learned State counsel produces the custody certificate dated 26.09.2024 of the petitioner in the Court today, 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 in custody for the last 01 year and 14 days as on 26.09.2024 and the trial of the case has not even reached halfway mark as only 02 out of 19 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 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 Karanjit Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/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 the trial Court shall proceed without being prejudiced by observations of this Court.

[HARPREET SINGH BRAR]
JUDGE

27.09.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No