

CRM-M-49016-2024 (O&M)
Date of decision: 04.10.2024

...PETITIONER

V/S

...RESPONDENTS

Present: Ms. Kuljit Kaur, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. This is the first petition filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita 2023 seeking grant of regular bail to the petitioner in
case bearing FIR No. 04 dated 09.01.2021 registered under Sections 363, 366-
A of Indian Penal Code (Section 366-A of IPC was deleted later on and
Sections 365, 376, 420, 468 of IPC, Sections 5 and 6 of Protection of Children
from Sexual Offences Act, 2012 and Section 9 of Children Marriage
Prohibition Act 2006) at Police Station Nurmehal, District Jalandhar (Rural).

2. The FIR(supra) has been lodged on the basis of statement of complainant Shingara Singh on the allegations that he does agriculture work and had three children, out of which his elder daughter' name is Narpreet Kaur, younger daughter is Pappe and younger son is Dhanbir Singh. His daughter Narpreet Kaur studies in 10+1 class and her date of birth is 05.07.2004. On dated 02.01.2021 around 4 p.m. his daughter left home without telling anyone for which they enquired amongst their kith kin and concerned relatives but his daughter Narpreet Kaur was not found. He further alleged that his minor daughter has been allured by unknown person with the intention of marrying her. On the basis of aforesaid allegations, FIR(supra) was registered.



3. Learned counsel for the petitioner *inter alia* contends that the petitioner as well as daughter of the complainant fell in love with each other and both of them intended to marry each other. However, the complainant was opposed to their relationship and both of them eloped and performed marriage on 04.01.2021 as discernible from the Marriage Certificate (Annexure P-2) and thereafter, both of them filed a joint petition before this Court seeking protection vide CRM-M-213-2021, which was disposed of vide order dated 11.01.2021 (Annexure P-3). After the marriage, both of them cohabited together as husband and wife and were blessed with a girl child on 27.01.2023. The birth certificate of their daughter is available on record as Annexure P-4. Further on 11.07.2023, the statement of the prosecutrix was recorded under Section 164 Cr.P.C. (Annexure P-6), in which she deposed before the learned trial Court and in both her statements, she has not levelled any allegation against the petitioner and she was declared hostile. The petitioner is behind the bars since 12.07.2023.

4. Per contra, learned State counsel filed the custody certificate, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that at the time, when petitioner had enticed away daughter of the complainant, she was minor and as such, the petitioner is not entitled for grant of bail by this Court. Learned State counsel further stated that petitioner has forged the documents with regard to age of the prosecutrix. However, he could not controvert the fact that petitioner is not involved in any other case.

5. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner is behind the bars for 01 year

witnesses, only 12 have been examined so far and a daughter has been born out of the wedlock of the petitioner and prosecutrix. Culpability, if any, would be determined at the time of the trial. 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 demo cracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

6. In view of the above, the present petition is allowed and the petitioner-Ajay Singh is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

7. 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.

October 04, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No