

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

CRM-M-50548-2024
Date of decision: 21.10.2024

....Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.0208 dated 28.06.2024 under Sections 147/149/323/354-A(1)(i)/365/306/506/34 of IPC and Section 8 of POCSO Act, 2012 registered at Police Station Bhuna, District Fatehabad.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that his daughter/victim at about 05:00 A.M. went for a walk on Khairi Chowk, Hisar Road and he was following her. After crossing Gaushala, one unknown boy started pitching her and the complainant opposed the same. The unknown boy has manhandled the complainant and put him down and ran away. When the complainant followed him, on Khairi Chowk, Dalbir and son of Dalbir, his nephew and four unknown persons were called and given beatings to the complainant and also given threat to kill him. Thereafter, his daughter, who is minor, has not come home and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the



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petitioner has been falsely implicated in the present case only for the reason that he is father of the main accused, namely, Pawan. The petitioner is not named in the FIR and no specific injury has been attributed to him. He further relies upon the medico legal report of the complainant (Annexure P-1) and submits that during medical examination, no injury was found on the person of the complainant and he only complained about the pain in the abdomen and of nasal bleed. The case set up by the prosecution is that when the victim found her father being brutally beaten, she ran away and committed suicide. It is further contended that there is no evidence on record that petitioner has indulged in teasing the deceased or he has played any active role which has any proximity with the alleged suicide of the victim and ingredients of abetment provided under Section 107 of IPC are not available *qua* the complicity of the petitioner and the petitioner is behind the bars since 03.07.2024. Investigation of the case has already been completed.

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 is the father of the main accused, namely, Pawan, who has teased the deceased and thereafter, all the accused persons had beaten the complainant and on finding his father being beaten by the accused persons, the victim ran off and committed suicide, as such, the petitioner is not entitled to any relief. 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 03.07.2024. 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 19 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-Balbir Singh @ Balbir 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

21.10.2024

Neha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No