

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

CRM-M-50331-2024

Date of decision: 18.10.2024

....Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Tejeshwar Singh, 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.245 dated 11.08.2024 under Sections 75(2)/351(2) of Bharatiya Nyaya
Sanhita, 2023 (Annexure P-1) registered at Police Station Sadar Pehowa,
District Kurukshetra.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that on 28.07.2024 at around 06:00 P.M., when she was going to her house from the place of her parental uncle, the accused/petitioner touched her shoulder with bad intention and moved his hand on her back. Thereafter, when she objected to the same, he extended threats to kill her and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case due to a family dispute between the parties and the petitioner is a labourer and only bread earner of his



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family. After the intervention of the common friends and respectables of the society, a compromise has been effected between the parties and the complainant has already given her affidavit in this regard. The petitioner is behind the bars since 12.08.2024. The Investigating Agency has already completed the investigation and filed the final report. He further submits that the petitioner is not involved in any other case.

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 there are specific allegations against the petitioner and the compromise cannot be considered at this stage and it is a matter of trial whether the petitioner is liable for the alleged offence or not.

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

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12.08.2024 and now the compromise has been effected between the parties which is discernible from Annexures P-2 & P-3. The case is triable by the Magistrate and moreover, the maximum sentence under which the FIR was lodged is punishable upto 03 years. 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 05 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-Lakhwinder Singh @ Jaggi 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

18.10.2024*Neha*

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No