



207

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50378-2024

Date of decision: 21.10.2024

Gurjinder Singh alias Prince

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Narinder Lucky, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

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.243 dated 24.05.2024 under Sections 363/366 of IPC registered at Police Station City Barnala District Barnala.

The FIR (*supra*) was registered on the statement of the complainant by alleging that on 21.05.2024, all of them went to Hanuman Mandir, Dhanaula and his mother along with his elder daughter were present at home and when the complainant returned home, he saw that his elder daughter and his scooty bearing registration No. PB-19L-3024 was not present at home. He tried to search her everywhere but could not trace her. It is further alleged that he has belief that driver, namely, Gurjinder Singh @ Prince (the petitioner herein) in whose van his daughter used to go to school, has enticed her away on the pretext of marriage and thus, the instant FIR got registered.

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



CRM-M-50378-2024

-2-

petitioner has been falsely implicated in the present case. The prosecutrix was not cited as one of the prosecution witnesses. When she was produced before the learned jurisdictional Magistrate for the purpose of recording her statement under Section 164 Cr.P.C., she has categorically stated that she left her home on her own on her Acura after fighting with her parents and she has not levelled any allegation against the petitioner with regard to any sexual assault. The complainant has already been examined by the learned trial Court. He further submits that the petitioner is behind the bars since 27.05.2024 and he 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 the petitioner has enticed away the daughter of the complainant who was 15 years of age at the time of incident. Now the prosecution has filed an application under Section 311 of Cr.P.C. for summoning the victim as witness in view of the fact that inadvertently, the victim is not cited as witness. 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 27.05.2024. 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 only 01 out of 15 prosecution witnesses 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-Gurjinder Singh alias Prince 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