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

CRA-S-3383-2024

Date of decision: 05.12.2024

Ajit alias Raj Kumar

....Appellant

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Amit Parashar, Advocate
for the appellant.

Mr. Vikas Bhardwaj, AAG, Haryana.

Mr. Kamal Chaudhary, Advocate
for respondent No.2.**HARPREET SINGH BRAR, J. (ORAL)**

The present appeal has been filed for setting aside the impugned order dated 21.09.2024 passed by the learned Additional Sessions Judge, Faridabad, whereby, the regular bail of the appellant has been dismissed in case bearing FIR No.42 dated 29.04.2024 under Section 376(2)N/506/509/452/368/323/354 of IPC, Section 6 POCSO and Sections 3/33/89 of SC/ST Act, registered at P.S. Women Police Station, Ballabhgarh, District Faridabad (Annexure P-1).

The FIR (*supra*) was registered on the statement of the complainant by alleging that on 04.03.2022, the accused/petitioner took her to his shop, which is near her college, by inducing her and committed rape upon her and also prepared her objectionable videos. Thereafter, he started threatening and pressurising her to develop physical relations with her otherwise he would make her video viral. On 16.06.2022, the

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accused/petitioner called the complainant/prosecutrix at his shop and thereafter locked her there. It is further alleged that on 17.12.2023, he again took her to his shop and committed rape upon her and pressurized her to marry him despite being already married and having children. On 25.03.2024, the accused/petitioner came to her house and started doing forcible physical relation and when the complainant/prosecutrix raised noise, the accused/petitioner fled away. On 26.03.2024, the accused/petitioner again came to her house and started assaulting her and hurled abuses and on hearing the noise, the father and brother of the complainant came there and on seeing them, the accused/petitioner fled away but fell down and they caught him and thus, the instant FIR got registered.

Learned counsel for the appellant *inter alia* contends that the complainant/prosecutrix is major and mature lady and all the allegations made by her are totally false and fabricated. The appellant and the prosecutrix were having love affair with each other and when the family members of the prosecutrix learnt about their relationship, she fled away from her house and in the initial statement made by her, no allegation of rape was made and once the FIR was registered on the complaint made by the appellant against the brother of complainant/respondent No.2, the FIR (*supra*) was registered as a counter blast. The appellant is behind the bars since 30.04.2024. Investigation is complete and charges have been framed and the appellant is having clean antecedents. He further submits that the appellant 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



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to the petitioner on the ground that there are serious allegations against the appellant and he committed repeated rape and also prepared the objectionable videos of the prosecutrix and he has been threatening the prosecutrix to make her videos viral. He further submits that the prosecutrix has reiterated her allegations in the statement recorded by the jurisdictional Magistrate under Section 164 Cr.P.C. 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

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30.04.2024. 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 25 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-Ajit alias Raj Kumar 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

05.12.2024*Neha*

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