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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-51030-2024 (O&M)
Date of decision: 22.10.2024

Sunny

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Sidhu, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking regular bail in case bearing FIR No.20 dated 03.04.2024 under Sections 354, 354-B, 354-D, 323, 149 of the Indian Penal Code, 1860 (for short 'IPC') and Sections 67 & 67(a) of Information Technology Act, 2000, registered at Police Station Valtoha, District Tarn Taran.
2. The present FIR was registered on the statement of the complainant, on the allegations that her younger son namely Akashdeep



Singh performed Court marriage with Ramandeep Kaur, who is daughter of Baldev Singh, residing in her neighbourhood. Due to this enmity, on 31.03.2024, at about 06:00 p.m., Sharanjit Singh @ Sunny (petitioner), Gurcharan Singh and Kulwinder Kaur @ Mani along with two unknown persons came in front of her door and started shouting and when the complainant came outside in the street, Kulwinder Kaur @ Mani raised lalkara and the petitioner caught the complainant from her hair and other accused started beating her and Gurcharan Singh caught her suit from neck and torn it away and disrobed her completely. When the complainant raised alarm, her husband came outside the house and other persons also gathered and seeing them, the accused persons fled away from the spot. It is further alleged that the unknown persons accompanying the accused persons captured the incident by preparing a video of the complainant and made it viral, which has defamed her and thus, FIR (*supra*) was got registered.

3. Learned counsel for the petitioner, *inter alia*, contends that a concocted and false story has been set up by the prosecution. The petitioner is a labourer and he was implicated in the present case being brother of co-accused Gurcharan Singh and FIR (*supra*) was registered after a delay of three days of the alleged occurrence, which creates serious doubt on the case set up by the prosecution. Moreover, the maximum sentence, under which the FIR (*supra*) was lodged, is punishable upto 05 years and the petitioner is not involved in any other case.



4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that the objectionable material/video was made viral by the petitioner on his Instagram ID. Learned State counsel produces the custody certificate dated 20.10.2024 of the petitioner in the Court today and the same is taken on record. However, he could not controvert the fact that the petitioner is not involved in any other case.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that he petitioner is behind bars since 06.04.2024; investigation is complete and the final report under Section 193 of BNSS was presented before the concerned Court and trial of the case has not made much progress, as out of 21 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 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

6. A two Judge Bench of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI, (2022) 10 SCC 51***, with respect to prevailing conditions of undertrial prisoner in India has observed as under: -

“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.”

7. In view of the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Sunny is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and learned trial Court shall proceed without being prejudiced by observations of this Court.

22.10.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No