



205

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

CRM-M-52050-2024

Date of decision: 25.10.2024

Pardeep Kumar

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Sanjay Verma, 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.57
dated 17.06.2024 under Sections 376 (2)(n)/506/406 of IPC registered at Police
Station Women Sector 51, Gurugram.

The FIR (*supra*) was registered on the statement of the
complainant/prosecutrix by alleging that she was working as a nursing staff in
Fortis Hospital, Gurugram and she came in contact with the accused/petitioner
in September, 2023, who was working as a driver in the same hospital. They
started talking to each other and started living together in a rented
accommodation. It is further alleged that on the pretext of marriage, the
accused/petitioner sexually assaulted the complainant on several occasions and
whenever, she asked him to marry, he used to make excuses on one pretext or
the other. Later on, the complainant/prosecutrix came to know that the
accused/petitioner was already married and has one child. Thereafter, the

**CRM-M-52050-2024****-2-**

accused/petitioner extended threats to her and also took money from her on number of occasions and took her to a hotel and established forcible physical relations with her and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the prosecutrix is a mature lady of 30 years of age and both of them working in the same establishment and being co-workers, they came in contact with each other and the relationship between them was purely consensual in nature. He further submits that the allegations that petitioner took the complainant/prosecutrix in a hotel on 12.06.2024 and established forcible physical relations with her, are absolutely false. It is further submitted that Annexure P-1 is the ledger of the concerned hotel where the prosecutrix has signed and given her Aadhar Card and a room was jointly booked in the name of the petitioner and the prosecutrix. The FIR (*supra*) was registered after a delay of five days, as such, the medical examination of the prosecutrix is of no consequence. He further placed reliance upon the chats between the petitioner and the prosecutrix and submits that it would be a moot point to be decided by the learned trial Court whether the petitioner has obtained the consent of the prosecutrix under some misconception, in view of the provisions contained under Section 90 of Cr.P.C.

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 serious and specific allegations against the petitioner and thus, he does not entitle to any relief.

Mr. Sanjeev Majra, Advocate puts in appearance and files his power of attorney in the Court today which is taken on record. He vehemently



CRM-M-52050-2024

-3-

opposes the grant of regular bail to the petitioner on the ground that the intention to cheat and deceive the prosecutrix is apparent as the petitioner was already married and he has sexually exploited the prosecutrix on the pretext of marriage and when the prosecutrix realized that she has been cheated, she immediately informed the jurisdictional police authorities.

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 06.07.2024. 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

**CRM-M-52050-2024****-4-**

made much progress as out of 22 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-Pardeep 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

25.10.2024*Neha*

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