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

CRM-M-52168-2024 (O&M)

Date of decision: 25.10.2024

Rulda Singh

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Keshav Pratap 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.250 dated 14.08.2024 under Sections 8/11(i) & (iv)/12 of POCSO Act and Sections 78(2)/79/126(2) of BNS, 2023 (offence under Sections 11 (i) & (iv)/12 of POCSO Act and Sections 78(2)/79/126(2) of BNS, 2023 were added later on) registered at Police Station Pehowa, District Kurukshetra.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that she is from a poor family and live in a hut. There is a tap near the gate and her victim/daughter used to fill water from there. The accused/petitioner does obscene gestures towards her victim/daughter and after showing her money asks her to come in a room. On 14.08.2024 around 11:00 A.M., her victim/daughter went to fill water where the accused/petitioner caught hold of her and teased her and when the victim/prosecutrix returned home while crying, she told everything to the complainant and thus, the instant FIR got registered.



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Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case due to the ongoing dispute between the petitioner and the current Sarpanch. The petitioner is the former Sarpanch of the village and his nephew, namely, Rinku @ Sanju, was living in a piece of shamlat land and in this regard, the Sarpanch of the village has issued notice under Section 24(1) of Haryana Panchayati Raj Act, 1994 to the petitioner on the allegations that his nephew is in the illegal possession of the shamlat land. The prosecutrix and the complainant have been recently settled in the adjoining of the shamlat land and they were never issued any notice by the current Sarpanch and the petitioner is respectable member of society and he has been falsely implicated at the behest of the Sarpanch of the village. Moreover, maximum sentence provided under which the FIR is registered, is upto five years and there is no corroboration of the case set up by the prosecution as there is no specific time and date has been given. He further submits that the alleged incident has taken place in a broad day light and no co-villager has seen the incident. The investigation of the case is complete.

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 and the victim/prosecutrix is 15 years of age and the petitioner has molested her, thus, he does not entitle to any relief.

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 17.08.2024. 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 14 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-Rulda Singh is ordered to be released on regular bail



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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