



204

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53350-2024 (O&M)
Date of decision: 05.11.2024

Mohit

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

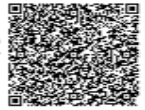
Present: Mr. Parveen Kaushik, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

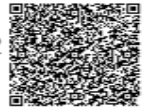
1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking regular bail in case bearing FIR No.201 dated 19.07.2024 under Sections 376(2)(n) & 506 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'), registered at Police Station City Jhajjar, District Jhajjar.

2. The present FIR was registered on the basis of complaint made by the complainant-prosecutrix, on the allegations that her date of birth is 11.10.2003 and in the year 2021, she and her friend Pinki were studying in Class 11 in a Govt. School. Her friend Pinki used to meet the petitioner. On



27.02.2021, the petitioner was standing near the gate of her school and on the pretext of celebrating his birthday, he took her to Suraj Guest House, Jhajjar on his bike. The petitioner produced Aadhar Card in the name of one Pooja and his own identity card and booked a room. The petitioner asked the complainant-prosecutrix to stay in the room and he went outside the room and after three minutes, he came back and offered cold drink to her and said that birthday cake would be cut thereafter. Due to drinking of cold drink, she became unconscious and when gained consciousness, she found herself in naked condition and blood was spread around her. She understood that some wrong act had been committed with her and on being asked from the petitioner, he threatened her not to disclose about the incident to anyone and if she did not so, he would kill her and her family members. The petitioner also made an obscene video of her and threatened her to make her video viral on social video, if she disclosed about the incident to anyone. Due to fear, the complainant-prosecutrix did not disclose about the incident. On 24.03.2021, the petitioner called her to meet him and on refusal by her, he threatened her to make viral her video and by blackmailing, till the year 2024, he committed wrong act with her. He also extorted money of Rs.15,000/- from her.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the present case and no offence under Section 6 of POCSO Act is made out, as at the time of registration of FIR (*supra*), the complainant-prosecutrix was major. The husband of the

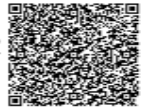


complainant-prosecutrix filed an application before the jurisdictional police authorities and on 21.06.2024, the matter was compromised, but thereafter, FIR (*supra*) was registered against the petitioner just to extort money. During the investigation, no objectionable material was found in the mobile phone of the petitioner. There is unexplained and inordinate delay of about 03 years and 05 months in registration of FIR (*supra*). The petitioner is behind bars since 31.08.2024 and is not involved in any other case and the investigation of the case is complete.

4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that there are serious allegations against the petitioner and he has been harassing the complainant-prosecutrix even after her marriage.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner is behind bars since 31.08.2024 and the trial of the case will take long time in its conclusion, as none out of total 21 prosecution witnesses has been examined so far. The culpability, if any, would be determined at the time of trial. 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 Mohit is ordered to be released on regular bail during trial on his furnishing bail/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 the observations of this Court.

[HARPREET SINGH BRAR]
JUDGE

05.11.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No