

**CRM-M-54579-2024 (O&M)****1****205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-54579-2024 (O&M)****Date of decision: 08.11.2024****SONU KUMAR****...PETITIONER****V/S****STATE OF HARYANA AND ANOTHER****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. Punam Singh, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

**********HARPREET SINGH BRAR J. (ORAL)**

1. The petitioner is seeking grant of regular bail in case bearing FIR No. 24 dated 27.03.2024 registered under Section 376(2)(n) of Indian Penal Code and Section 6 of Protection of Children from Sexual Offences Act, 2012 (Sections 363 and 366 of IPC were added later on) at Police Station Women West, Gurugram.

2. FIR(supra) was registered on the statement of complainant Rani on the allegations that she was living with her parents and studied upto 8th standard. She met a boy named Sonu (petitioner herein) through her friends, who had a flower shop. She had gone with her friends to Gurgaon to celebrate a friend's birthday, where Sonu was also present, and she talked to him for the first time and they exchanged phone numbers. After that she started talking with Sonu over phone and she entered into relationship with Sonu. The aforementioned incidents are of October 2023. After that, on 14 January 2024, she booked a cab and went to Gurgaon to Hotel Town House Singha Chowk, Sector-12, Gurugram to meet Sonu. Sonu took her inside the hotel, where he had a room, and instead of her Aadhar card Sonu gave Aadhar of some girl

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named Sonu Kumari. Then Sonu took her inside the hotel room and they had some food, and then even after her resistance, Sonu made physical relations with her, and when she started crying Sonu said that he will marry her when she turns 18, and that her 18th birthday is some months away. After that she agreed with Sonu and she went to the same hotel on 21st January 2024 and again made physical relations with him. After that they went many times to that same hotel and on the pretext of marriage Sonu made physical relations with her. That due to missing her periods date, she thought she had gotten pregnant, due to which she took a pill for abortion on 20.03.2024. After that on 25.03.2024, she got really sick and her mother took her to Guru Gobind Singh Hospital Raghbir Nagar, Delhi where she took a pregnancy test and she got to know that she was pregnant. Due to fear she told the wrong dates of making physical relations and missing her periods. On the basis of aforesaid allegations, FIR(supra) was registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner and victim-prosecutrix fell in love with each other and their relationship was opposed to the family of the prosecutrix and FIR(supra) was registered due to pressure of mother of the prosecutrix after hearing backlash from the society. Petitioner and the prosecutrix want to solemnize the marriage and the prosecutrix has already been examined by learned trial Court as PW-2 and she has not supported the case of the prosecution, rather she has stated that she is in love with the petitioner and she intends to marry him and petitioner and respondent No. 2 have effected a compromise and petitioner has approached this Court seeking quashing of FIR(supra) on the basis of compromise and a Co-ordinate Bench of this Court has issued notice and directed the parties to get their statements recorded qua the factum of



compromise vide order dated 28.10.2024 passed in CRM-M-53789-2024.

Counsel for the petitioner further contends that petitioner is not involved in any other case and he is behind the bars since 29.03.2024.

4. Per contra, learned State counsel filed the custody certificate, which is taken on record and opposes the prayer made by learned counsel for the petitioner on the ground that the victim-prosecutrix was minor at the time of alleged incident and as such in view of the serious allegations levelled against the petitioner, he is not entitled to any relief by this Court.

5. Having heard the learned counsel for the parties and after perusing the record, it transpires that petitioner is behind the bars since 29.03.2024 i.e. for 07 months and 06 days as on 07.11.2024. Out of total 26 prosecution witnesses, only 03 have been examined so far, thus, conclusion of trial will take sufficient long time. Culpability, if any, would be determined at the time of the trial.

6. 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."

7. In view of the above and without commenting upon the merits of the case, the present petition is allowed and the petitioner-Sonu Kumar is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

8. 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.

November 08, 2024

Ajay Goswami

(i) Whether speaking/reasoned

(ii) Whether reportable

(HARPREET SINGH BRAR)

JUDGE

Yes/No

Yes/No