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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-54850-2024 (O&M)
Date of decision: 11.11.2024

Mannu Kumar @ Mohan @ Manu Kumar Singh

... Petitioner

Vs.

State of Haryana

... Respondent

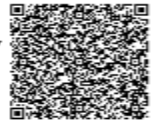
CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rahul Bhargava, Advocate and
Mr. Tanveer Singh, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana.

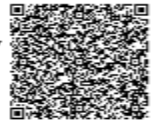
HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 [*now Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023*] seeking regular bail in case bearing FIR No.47 dated 10.06.2024 under Section 12 of The Protection of Children from Sexual Offences Act, 2012 and Section 506 of the Indian Penal Code, 1860, registered at Women Police Station Faridabad, District Faridabad.
2. The present FIR was registered on the basis of a complaint made by father of the victim-prosecutrix, on the allegations that one Vinod Singh



was living in his neighbourhood and few days ago, the petitioner also started residing with him and he used to do obscene acts and to send obscene messages to the prosecutrix and her family. The petitioner admitted his mistake in the presence of his family and respectables of the society and assured that he would not commit the said offence in future, as such, the matter was compromised at that time. The petitioner again started using abusive language with the complainant and his family and sent obscene message on the mobile phones of the complainant and his family. Co-accused Vinod Singh and his family are also responsible for the same. The complainant would produce the call details and obscene messages as and when required and he apprehends that co-accused Vinod Singh would implicate him and his family members in some false case. The son of co-accused Vinod Singh, namely, Sagar also indulged in making and uploading the obscene videos.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the present case. Initially, Vinod and Sagar were nominated as accused and they have been attributed specific allegations with regard to sending obscene messages to daughter of the complainant. Thereafter, a compromise was effected between them. The FIR (*supra*) was registered after 07 months of the compromise. It is further contended that the petitioner has no connection with the mobile number, which was used for sending the obscene messages and the maximum sentence



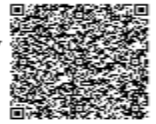
provided for the offences, under which the FIR (*supra*) is registered, is upto 03 years. The petitioner is behind bars since 28.06.2024 and he is not involved in any other case and the investigation is complete.

4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that there are serious and specific allegations against the petitioner and he had been sending obscene messages to the prosecutrix. Learned State counsel produces the custody certificate dated 10.11.2024 of the petitioner, in the Court today, which is taken on record. However, he could not controvert the fact that the petitioner was merely 19 years of age at the time of incident and he 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 the petitioner is behind bars since 28.06.2024 and the trial of the case will take long time in its conclusion as none, out of total 16 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 Mannu Kumar @ Mohan @ Manu Kumar Singh 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.

11.11.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No