



petitioner is a household lady, aged about 72 years and her case is at par with the case of co-accused Seema and Sinder Devi, who have been granted the concession of regular bail by this Court in case bearing CRM-M No.52406 of 2024 on 25.10.2024. Learned counsel submits that earlier, similarly situated co-accused namely Paramjeet Kaur and Sonia were granted the concession of regular bail by learned Additional Sessions Judge, Fast Track Court, Ambala vide order dated 19.04.2024. Further, the victim/prosecutrix has been examined by the learned trial Court and she has not supported the case of the prosecution and learned Public Prosecutor has declared her hostile. Petitioner is behind the bars for the last 07 months and the trial of the case is likely to take long time.

4. 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 as she has played an active role in getting the abortion done and as such, she is not entitled to any relief.

5. 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.”

6. 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 12.04.2024. 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. There are 24 prosecution witnesses. 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 her rights under Article 21 of the Constitution of India.

7. 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-Shakuntla is ordered to be released on regular bail during trial on her furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

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 14, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |