



petitioner has been falsely implicated in the present case, due to a monetary dispute with the husband of the prosecutrix. Learned counsel submits that the alleged incident has taken place on 28.05.2023, however, the FIR (*supra*) was registered on 01.06.2023 and the delay of 03 days in lodging the FIR (*supra*) has not been explained. Learned counsel further submits that there is no independent corroboration to the case set up by the prosecution against the petitioner. Even the DNA Report does not indicate complicity of the petitioner. Furthermore, the petitioner is behind the bars since 09.06.2023 and has suffered the incarceration of almost 01 year and 05 months. Moreover, the prosecution has not been able to conclude its evidence and the delay in trial cannot be attributed to the petitioner as he is in judicial custody.

4. *Per contra*, learned State counsel produces the custody certificate, which is taken on record and opposes the prayer made by the petitioner on the ground that there are serious and specific allegations against the petitioner and the prosecutrix has supported the case and reiterated her allegations against the petitioner.

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 the bars since 09.06.2023 and has undergone a period of 01 year, 05 months and 05 days as on 13.11.2024 and is not involved in any other case. The investigating agency has already concluded the investigation and has submitted the final report under Section 173 Cr.P.C. The trial of the case is likely to take long time as out of 17 witnesses cited by the prosecution, only one witness has been partly examined so far. Further incarceration of the petitioner, without there being the prospect of the conclusion of the trial, in the near future, would be violative of his rights under Article 21 of the Constitution



of India. 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, the present petition is allowed and the petitioner-Lovkush @ Labh Singh @ Labhu is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

8. Nothing observed hereinabove shall be construed to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

November 14, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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