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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-56304-2024 (O&M)  
Date of decision: 19.11.2024

Gurlal Singh @ Harpreet Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rhythem Bajaj, Advocate  
for the petitioner.

Mr. Nitesh Sharma, DAG, Punjab.

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HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 483 of Bharatiya  
Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking regular bail in  
case bearing FIR No.82 dated 27.10.2023 under Sections 363 & 366-A of the  
Indian Penal Code, 1860 (for short 'IPC') (Section 376 of IPC and Section 6  
of the Protection of Children from Sexual Offences Act, 2012 were added vide  
DDR No.27 dated 14.12.2023), registered at Police Station Sadar Abohar,  
District Fazilka.

2. The present FIR was registered on the basis of statement made by



the complainant, on the allegations that he is having five children; two sons and three daughters. The victim-prosecutrix is 17 years of age and she studied upto 10<sup>th</sup> standard and thereafter, she stopped studying and presently, she is at home. On 26.10.2023 at night, after taking meal, all the family members went to sleep and on the next day, when they woke up in the morning at around 05.00 a.m., they did not find her on cot. On making search for her, it came to know that she was enticed away by the petitioner on the pretext of marriage.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the present case. The petitioner and the prosecutrix fell in love with each other and their relationship was opposed to the complainant and other family members. Both of them decided to marry each other. However, family members of the prosecutrix wanted to forcibly marry her with someone else and she indicated her inclination to marry the petitioner and her family members also gave beatings to her, as such, she was left with no option, but to elope with the petitioner. Thereafter, the petitioner and the prosecutrix jointly filed a petition i.e. CRWP-11023-2023 seeking protection to their lives and liberty. It is further contended that statement of the prosecutrix was recorded under Section 164 of the Code of Criminal Procedure, 1973 (*now Section 183 of BNSS*), in which she categorically stated that she wants to live with the petitioner and no allegations of any kind have been levelled against the petitioner. The petitioner is behind bars since



29.11.2023 and he is not involved in any other case.

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, as he enticed away minor daughter of the complainant on the pretext of marriage. Learned State counsel produces the custody certificate dated 18.11.2024 in the Court today, which is taken on record. However, he could not controvert the fact that the petitioner 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 in custody for the last 11 months and 16 days as on 18.11.2024 and the trial of the case has not even reached halfway mark, as only 03 out of 17 prosecution witnesses have 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 Gurlal Singh @ Harpreet 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.

**[ HARPREET SINGH BRAR ]**  
**JUDGE**

19.11.2024  
*vishnu*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No