

CRM-M-57547-2024 (O&M)

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**214 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-57547-2024 (O&M)

Date of Decision: 22.11.2024

PRINCE

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

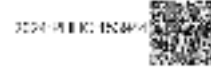
Present: Mr. Ishnoor Singh, Advocate
for Mr. Vikram Singh, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

Harpreet Singh Brar J.(Oral)

1. This is the first petition filed under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 (Section 439 Cr.P.C.) seeking grant of regular bail to the petitioner in case bearing FIR No. 114 dated 22.05.2024 registered under Sections 34, 376, 376(3), 506, 511 and 342 of Indian Penal Code and Sections 4 and 18 of Protection of Children from Sexual Offences Act, 2012 at Police Station Matlauda, District Panipat.

2. The FIR (supra) was registered on the statement of the complainant by alleging that on 12.05.2024, her daughter was playing in front of her house and at that time, co-accused Sunita called her to her house where Prince (petitioner herein) was already present. Thereafter, the co-accused Sunita closed the door of her house from outside and thereafter, petitioner forcefully committed rape upon the daughter of the complainant and also extended threats to her that if she told anyone about this, he would kill her and when the complainant came to know about this incident, she found that apart from Prince, Nikhil also tried to rape her daughter and thus, the instant FIR got registered.



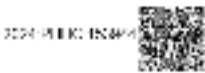
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3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case as the FIR(supra) has been registered after a delay of 10 days, which creates a serious doubt on the case set up by the prosecution. Learned counsel further submits that initially the allegations were levelled against the co-accused Nikhil, who has been declared juvenile and thereafter, the petitioner has been named as an accused. Further in the medical examination of the prosecutrix, nothing suggestive of sexual assault has been detected and petitioner is behind the bars since 23.05.2024 and co-accused Sunita was granted the concession of regular bail by this Court vide order dated 21.10.2024 passed in CRM-M-50501-2024.

4. Learned State counsel filed the custody certificate, which is taken on record and *per contra* opposes the prayer made by learned counsel for the petitioner on the ground that there are serious and specific allegations levelled against the petitioner and he is not at par with the co-accused Sunita, who has been enlarged on regular bail by this Court. However, he could not controvert the fact that petitioner is not involved in any other case.

5. Having heard the learned counsel for the parties and after perusing the custody certificate, it transpires that petitioner is behind the bars since 23.05.2024 i.e. for a period of 05 months and 29 days as on 21.11.2024 and out of total 18 prosecution witnesses, none has been examined so far, therefore, the conclusion of trial is likely to take considerable long time. Culpability, if any, would be determined at the time of the trial. The petitioner is not involved in any other case.



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 demo cracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

6. In view of the above, the present petition is allowed and the petitioner-Prince is ordered to be released on regular bail, subject to his furnishing bail bonds/surety bonds to the satisfaction of CJM/Duty Magistrate concerned.

7. 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.

(HARPREET SINGH BRAR)
JUDGE

22.11.2024
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No