

CRM-M-57217-2024 (O&M)

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

CRM-M-57217-2024 (O&M)

Date of Decision: 22.11.2024

KARAN @ KARNU

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

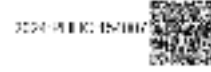
Present: Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

Harpreet Singh Brar J.(Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in case bearing FIR No. 208 dated 28.06.2024 registered under Sections 147, 149, 323, 354-A(1)(i), 365, 306, 506, 34 of Indian Penal Code and Section 8 of Protection of Children from Sexual Offences Act, 2012 at Police Station Bhuna, District Fatehabad.

2. The FIR (supra) was lodged on the statement of the complainant by alleging that his daughter/victim at about 05:00 A.M. went for a walk on Khairi Chowk, Hisar Road and he was following her. After crossing Gaushala, one unknown boy started pitching her and the complainant opposed the same. The unknown boy has manhandled the complainant and put him down and ran away. When the complainant followed him, on Khairi Chowk, Dalbir and son of Dalbir, his nephew and four unknown persons were called and given beatings to the complainant



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and also given threat to kill him. Thereafter, his daughter, who is minor, has not come home and thus, the instant FIR got registered.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has been falsely implicated in the present case and the main accused in the present case is Pawan and further no specific injury has been attributed to the petitioner and during the medical examination of the complainant, no injury was detected and the complainant has only complained about pain in the abdomen and of nasal blood. It is further contended that there is no evidence available on record to remotely suggest that petitioner has indulged in teasing the victim or he has played any active role which has any proximity with the alleged suicide of the victim and the ingredients of abatement to commit suicide as provided under Section 107 of the Indian Penal Code are not attracted. The petitioner is behind the bars since 03.07.2024 and similarly situated co-accused Balbir Singh @ Balbir has been enlarged on regular bail by this Court vide order dated 21.10.2024 passed in CRM-M-50548-2024 (Annexure P-2).

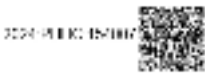
4. The learned State counsel has filed custody certificate in the Court today which is taken on record and *per contra*, opposes the grant of regular bail to the petitioner on the ground that when co-accused Pawan, teased the deceased, thereafter, all the accused persons including the present petitioner, had beaten the complainant and on finding his father being beaten by the accused persons, the victim ran off and committed suicide, as such, the petitioner is not entitled to any relief. However, he could not controvert the fact that the 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 03.07.2024 i.e. for a period of 04 months and 19 days as on 21.11.2024 and out of total 19 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-Karan @ Karnu 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