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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-S-3748-2024

Date of decision: 22.11.2024

Harsh alias Himanshu

....Appellant

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Gaurav Gupta, Advocate
for the appellant.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present appeal has been filed for setting aside the impugned order dated 29.10.2024 passed by the learned Additional Sessions Judge, Fast Track Special Court, Faridabad, whereby, the regular bail application in case bearing FIR No.737 dated 12.09.2024 of the appellant has been dismissed.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that the accused/appellant was keeping an evil eye on her and about two months ago, he started teasing her and making obscene remarks while she was going to school and out of fear, she did not disclose this incident to anyone due to which, the accused/appellant also gained more courage and started touching her inappropriately. It is further alleged that thereafter, the complainant has told everything to her parents after which her father went to the house of the accused/appellant about one and a half month ago and told his parents about this. Thereafter, about 45 days ago, on 25.08.2024, the accused/appellant came to the village of the complainant by following her and stopped her near Ajit's house at a secluded place and used casteist words and



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hurled abuses. Thereafter, the complainant along with her younger sister came out of the school after giving examination then suddenly at around 12:00 P.M., the accused/appellant along with his friend came on a motorcycle and forcibly tried to drag her towards the motorcycle and tried to kidnap her and threatened to kill her due to which, she fell down and her younger sister raised alarm and then they pushed her and ran away and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the appellant has been falsely implicated in the present case. Further, the legal mandate of the provisions of Sections 3 and 17 of SC/ST Act has not been followed. The investigation of the FIR (*supra*) is has carried out by the Sub Inspector and the appellant is a young boy of 18 years of age. He further submits that the appellant is behind the bars since 20.09.2024. Investigation of the case is complete and during the pendency of the present petition, compromise has been effected between the parties and affidavit of the complainant is available on record as Annexure A-3. Further, the victim/prosecutrix appeared before the learned trial Court and made a statement in this regard and also placed on record the compromise dated 16.10.2024.

Ms. Mukta Sharma, Advocate for Mr. Kamal Chaudhary, Advocate puts in appearance on behalf of the complainant/respondent No.2 and files her *vakalatnama* in the Court today which is taken on record. She further submits that she has no objection in case the present appeal is allowed.

Per contra, the learned State counsel opposes the grant of regular bail to the appellant on the ground that there are specific allegations against the appellant, however, he could not controvert the fact that the appellant is not involved in any other case and is a student of ITI.



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.”

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the appellant is behind the bars since 20.09.2024. 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 as out of 17 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/appellant. Keeping the appellant 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.

In view the above, the present appeal is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the appellant-Harsh @ Himanshu 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.

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
Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No