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

CRM-M-59447-2024

Date of decision: 03.12.2024

Beeru Ram alias Viru Ram

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Sandeep Singh Jattan, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.33
dated 12.08.2023(Annexure P-1) under Sections 328/363/366-A/506 of IPC
(added later on) (Section 376-DA of IPC now deleted) and Section 6 of
POCSO Act registered at Police Station Women, District Yamuna Nagar.

The FIR (*supra*) was registered on the statement of the
complainant by alleging that on 11.08.2023 at around 07:00 P.M., she left her
victim/daughter at the house of her sister-Rubina at Village Shergarh and when
she returned she did not find her daughter there. She tried to search her
everywhere but could not trace her. On next day at around 03:00 P.M., she
went to search for daughter and she found her in an unconscious condition near
cremation ground. Thereafter, the victim told the complainant that Nanha and
Beeru (the petitioner herein) took her in a car and committed wrong act with
her and thus, the instant FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the

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petitioner has been falsely implicated in the present case. The victim/prosecutrix has named two persons as accused and prior to the registration of the FIR (*supra*), one FIR bearing No.229 dated 22.06.2023 under Section 21-B of the NDPS Act at Police Station Bilaspur, District Yamuna Nagar was registered against the husband of the complainant and the petitioner is the witness in the aforementioned case and as a counter-blast, the present case has been registered against the petitioner by the complainant on the basis of false allegations and the prosecutrix initially named two persons, thereafter, she named three persons in her subsequent statement and the Investigating Agency has declared the other two persons as innocent who have also alleged to have played similar role. Further, the medical examination conducted upon the prosecutrix does not corroborate the ocular versions. Nothing suggestive of sexual assault has been found and even the hymen of the prosecutrix has been found intact. The complainant has earlier also got registered FIR No.108 dated 29.06.2021 under Section 10 of POCSO Act at Police Station Yamuna Nagar. The complainant and the victim are the same in the aforementioned case and the accused were finally acquitted and the complainant while deposing as prosecution witnesses, have not supported the case of the prosecution and she was declared hostile while appearing as PW-4. Investigation is complete and petitioner is not involved in any other case. He further submits that the petitioner is behind the bars since 03.04.2024.

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 the victim/prosecutrix was minor at the time of incident and further the semen was detected on the clothes worn by the



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victim and the forensic evidence clearly indicates the complicity of the petitioner. However, she could not controvert the fact that 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 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 petitioner is behind the bars since 03.04.2024. 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 10 out of 17 prosecution witnesses have been examined so far. The culpability, if any, would be determined at the time of

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trial. No useful purpose shall be served by further detention of the accused/petitioner. 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.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Beeru Ram @ Viru Ram 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

03.12.2024*Neha*

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