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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-59803-2024 (O&M)
Date of decision: 04.12.2024

Manpreet Singh @ Manna

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

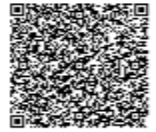
Present: Mr. B.D. Sharma, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

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.126 dated 03.06.2023 under Sections 363, 366, 376, 120-
B of the Indian Penal Code, 1860 (for short 'IPC') and Section 6 of the
Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO
Act') (offence under Section 376 of IPC and Section 6 of POCSO Act were

2024:PHHC:161501

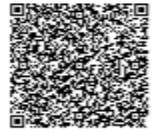


added later on vide DDR No.39 dated 19.01.2024), registered at Police Station Maqboolpura, District Police Commissionerate Amritsar.

2. The present FIR was registered on the basis of statement of the complainant, on the allegations that he is an auto-rickshaw puller and has five daughters and one son. His daughter 'M', who was 17 years of age at the time of registration of FIR (*supra*), studied upto 9th standard and presently, she is living at home. His neighbour Manpreet Singh @ Mann (petitioner) was keeping bad eyes of his daughter 'M'. On 27.05.2023, he and his family members slept after taking meal and when he woke up on 28.05.2023 to urinate, he did not find his daughter 'M' in the room. Thereafter, he told about this to his wife. They searched his daughter, but she could not be traced out. He came to know that the petitioner, in connivance with Rajpal Singh @ Raja son of Dheer Singh and Jaspinder Singh @ Bobby son of Manga, enticed away his daughter 'M' 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 and the victim-prosecutrix was not recovered from his custody. In her statement recorded under Section 164 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') (*now Section 183 of BNSS*) by the jurisdictional Magistrate on 19.01.2024, the victim-prosecutrix categorically stated that she and the

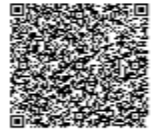
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petitioner intended to marry each other and when she disclosed this to her parents, her father refused to marry her with the petitioner and he fixed her marriage with someone else and as such, she left the house on her own on 27.05.2023 and she wants to live with the petitioner. Further, to determine the exact date of birth of the victim-prosecutrix, neither the complainant produced her birth certificate nor she was subjected to any ossification test and there is an unexplained delay of 06 days in registration of FIR (*supra*). The petitioner is behind bars since 18.01.2024 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 for committing rape upon daughter of the complainant. Learned State counsel produces the custody certificate dated 03.12.2024 of the petitioner 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 behind bars for the last 10 months and 13 days as on 03.12.2024 and the trial of the case has not even reached halfway mark, as only 03 out of 24 prosecution witnesses have been examined so far. The culpability, if any,

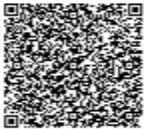


would be determined at the time of trial. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

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 Manpreet Singh @ Manna 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.

04.12.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No