



208

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

CRM-M-60842-2024

Date of decision: 10.12.2024

Vikrant Kumar Sharma

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Arjun Dhingra, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, 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.650 dated 05.10.2024 under Sections 115/69 of BNS Act, 2023 (Section
115(2) added in alternate to Section 115 of BNS Act, 2023) registered at Police
Station Sadar Gurugram, District Gurugram.

The FIR (*supra*) was lodged on the statement of the complainant
by alleging that she came to Gurugram in the year 2019 and started working in
Weelseye company and in the year 2021, the accused/petitioner also started
working in the same company and they used to talk. Thereafter, they became
good friends and started meeting each other. It is further alleged that the
accused/petitioner had developed physical relations with the
complainant/prosecutrix on the pretext of marriage. On 04.10.2024, the
accused/petitioner called her to his room and established forcible physical
relations with her and also resorted to physical violence and thus, the instant
FIR got registered.



CRM-M-60842-2024

-2-

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and there was a consensual relationship between the petitioner and the complainant/prosecutrix and there is nothing on record to remotely suggest that the consent of the prosecutrix was obtained under misconception on the pretext of marriage as provided under Section 90 of IPC (now Section 28 of BNS) and the prosecutrix is a mature lady of 28 years of age. He further submits that the petitioner and the prosecutrix were working in the same company in the year 2021 and thereafter, they became friends and now the prosecutrix has effected compromise and the affidavit of the prosecutrix available on record as Annexure P-2. Further, the petitioner has already filed a petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of FIR (*supra*) on the basis of compromise where the parties were directed to appear before the trial Court/Illaq Magistrate by the Coordinate Bench of this Court on 08.11.2024.

Mr. Sanyam Khetarpal, Advocate puts in appearance on behalf of respondent No.2 and files his *vakalatnama* in the Court today which is taken on record and submits that he has no objection in case the present petition is allowed.

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 there are serious allegations against the petitioner that he exploited the prosecutrix on the false promise of marriage, however, he could not controvert the fact that a petition seeking quashing of FIR (*supra*) on the basis of compromise has already been filed before this Court



and the investigation has already been concluded. He further submits 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 07.10.2024. 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 12 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

**CRM-M-60842-2024****-4-**

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-Vikrant Kumar Sharma 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

10.12.2024*Neha*

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