

**CRM-M-61315-2024 (O&M)****-1-****209 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****CRM-M-61315-2024 (O&M)****Date of Decision: 11.12.2024****JASBIR SINGH****...Petitioner****Versus****STATE OF PUNJAB****...Respondent****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Ranjodh Singh Sidhu, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab

*********HARPREET SINGH BRAR J.(ORAL)**

1. The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.153 dated 05.09.2023 under Sections 363/366-A/376-D/120-B of Indian Penal Code and Sections 6, 17 and 19 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Sadar Patti, District Tarn Taran.

2. The FIR (supra) was lodged on the statement of the complainant by alleging that on 01.09.2023, he was not present at home and his youngest daughter went to school. His elder daughter/prosecutrix and his mother were present at home. When he returned back at about 05:00 P.M., he saw that his elder daughter/prosecutrix was not present in the house. He tried to search her everywhere but could not trace her. Thereafter, he came to know that his daughter/prosecutrix had been enticed away by the co-accused Harpreet Singh on the pretext of marriage and thus, the instant FIR got registered.

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3. Learned counsel for the petitioner *inter alia* contends that the main accused namely Harpreet Singh has been granted the concession of regular bail by this Court vide order dated 26.09.2024 passed in CRM-M-47221-2024 (Annexure P-4) and there is a delay of 04 days in registration of the FIR(supra), which remained unexplained and it creates a serious doubt on the case set up by the prosecution and in fact the prosecutrix was having love affair with the co-accused Harpreet Singh and their relationship was opposed to the complainant and the date of birth of the prosecutrix is yet to be proved in accordance with law and only the primary entry regarding her date of birth has been taken into possession by the Investigating Officer.

4. Learned State counsel filed the custody certificate, which is taken on record and *per contra* opposes the prayer made by learned counsel for the petitioner on the ground that prosecutrix has named the petitioner in her statement recorded under Section 161 Cr.P.C., however, he could not controvert the fact that investigation of the case is complete and co-accused Harpreet Singh has been enlarged on regular bail by this Court vide order dated 26.09.2024.

5. 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.”

6. 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 07.08.2024. Investigation of the case 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 no prosecution witnesses 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/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.

7. 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- Jasbir Singh 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.

8. 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

11.12.2024
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No