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

CRM-M-62736-2024

Date of decision: 18.12.2024

Mangal Singh alias Manga

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Ms. Bhupinder K. Bhangu, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

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.0216 dated 19.10.2023 under Sections 363/366-A of IPC registered at Police Station Sultanpur Lodhi, District Kapurthala.

The FIR (*supra*) was lodged on the statement of the complainant by alleging that the accused/petitioner has enticed away his youngest daughter who was aged about 14 years (at the time of incident). It is further alleged that earlier also, he used to threaten her that he will enticed away her daughter. Further, on 16.10.2023, when the complainant along with Sabhi, Mewa Singh and Inderjit Singh, went to the house of the accused/petitioner, the accused/petitioner agreed to return her daughter but with a condition to write something to which, the complainant refused and then the accused/petitioner fled away from the spot in a vehicle after taking her daughter along with him 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 and prior to the registration of the FIR (*supra*) also, the prosecutrix has left her home and eloped with the petitioner, thereafter, with the intervention of the Sarpanch of the village of the prosecutrix and Sarpanch of the village of the petitioner, the prosecutrix was handed over to the complainant. Thereafter, on another occasion, the Sarpanch of Village Dolewal arranged a meeting of the complainant with her daughter and the petitioner. However, the petitioner took her daughter in a vehicle and fled away from the spot and talks of compromise were initiated. Ultimately, the complainant reported the matter to the jurisdictional police authorities. In view of the aforesaid facts, it is clear that the prosecutrix has left with the petitioner on her own violation and there is no allegation with regard to any sexual assault against the petitioner and petitioner is a young boy of 22 years of age and proximity between the age of the petitioner and the prosecutrix requires a lenient view. The petitioner is behind the bars for the last more than one year.

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 petitioner was pressurizing the complainant to give in writing that she will not take legal action against him and on her refusal, he took away the minor daughter of the complainant from her lawful guardianship. However, he could not controvert the fact that the petitioner is not involved in any other case and is behind the bars since 09.11.2023.

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 09.11.2023. 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 only 01 out of 24 prosecution witnesses has been partially 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.

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-Mangal Singh @ Manga 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

18.12.2024
Neha

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