



dropped his niece Anjali in a Verna car at Village Balian. The complainant saw Anjali getting out of the car and questioned her. She informed him that the person in the car was Lakhwinder Singh *alias* Lakha son of Rajpal Singh, resident of Ganga Singh Wala, who works out at the same gym as her and wishes to marry her. The complainant told his niece that they cannot form alliances outside our community, and his niece agreed with this. Following this, the complainant informed Lakhwinder Singh's father, Rajpal Singh, through a respectable intermediary to withdraw from this matter. On July 26, 2024, his niece Anjali left for the gym in Sangrur as usual at around 10 AM but did not return home. The complainant tried to search for her to the best of his ability but could not locate her. Thereafter, he came to know that on the previous day, Lakhwinder Singh *alias* Lakha, along with his friend Jaswinder Singh *alias* Jassu (petitioner herein) son of Inderjit Singh, resident of Haripura Basti, Sangrur, lured his niece with the false promise of marriage and took her away from Village Balian in a Verna car.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is 20 years of age, whereas the prosecutrix is mature lady of 22 years of age and petitioner has been falsely implicated in the present case. It is the only allegation against the petitioner that he is friend of co-accused, namely Lakhwinder Singh *alias* Lakha, who has enticed away the prosecutrix. Learned counsel submits that the material witnesses i.e. the complainant and the prosecutrix have been examined. Learned counsel refers to their testimonies, which are available on record as Annexures P-6 and P-7 and submits that both of them have not supported the case of the prosecution and have been declared hostile by learned Public Prosecutor. Learned counsel further submits that the investigation of the case is complete and the petitioner is not involved in any



other case.

4. Ms. Pallavi, Advocate for Mr. Ishan Gupta, Advocate has put in appearance on behalf of the complainant and filed *vakalatnama* on his behalf, which is taken on record. Registry is directed to tag the same at the appropriate place. Learned State counsel produces the custody certificate, which is taken on record. *Per contra*, learned State counsel assisted by learned counsel for the complainant opposes the prayer of the petitioner on the ground that there are serious and specific allegations against the petitioner and he along with co-accused has exploited the prosecutrix, after administering some intoxicating substance in the cold-drink and thereafter, both of them raped her. However, learned State counsel 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 the bars since 31.07.2024 and has undergone a period of 04 months and 15 days as on 16.12.2024 and is not involved in any other case. The investigating agency has already concluded the investigation and has submitted the final report under Section 173 Cr.P.C. The trial of the case has not even reached half way mark as out of 29 witnesses cited by the prosecution, only 04 have been examined so far. Further incarceration of the petitioner, without there being the prospect of the conclusion of the trial, in the near future, would be violative of his rights under Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. 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.”

7. In view of the above, the present petition is allowed and the petitioner-Jaswinder Singh *alias* Jassu 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 to be an expression of opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

December 17, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

- | | | |
|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |