



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

CRA-S-4074-2024

Date of decision: 18.12.2024

Anil

....Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manjeet Singh, Advocate
for the appellant.

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present appeal has been filed against the impugned order dated 20.11.2024 passed by the learned trial Court whereby, the application for grant of regular bail has been dismissed in case bearing FIR No.0054 dated 28.02.2024 (Annexure A-1) under Section 346 of IPC (Sections 363/366-A/376 of IPC, Section 6 of POCSO Act and Section 3(2)(v) of SC/ST Act were added later on) registered at Police Station Tosham, District Bhiwani.

The FIR (*supra*) was registered on the statement of the complainant by alleging that her daughter who was 17 years old (at the time of incident) left for school at around 11:00 A.M. and did not return home. She tried to search her everywhere but could not trace her and thus, the instant FIR got registered.

Learned counsel for the appellant *inter alia* contends that the appellant has been falsely implicated in the present case. The material witnesses i.e. the victim/prosecutrix, her mother and her father have been examined by the learned trial Court as PW-14 to PW-16, respectively, and none



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of them has supported the case of the prosecution and they have been declared hostile by the learned Public Prosecutor. He further submits that the appellant was not found present in the CCTV footage collected by the Investigating Agency, rather one boy namely, Amit, was detected. He further submits that prosecutrix is major as per her own version and her age has not been proved in accordance with law.

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 appellant on the ground that there are grave and serious allegations against the appellant and DNA report is still awaited. However, he could not controvert the fact that the appellant is not involved in any other case and he is behind the bars since 12.04.2024.

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 appellant is behind the bars since

12.04.2024. Investigation is complete. The final report under Section 173

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Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as only 16 out of 23 prosecution witnesses have 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/appellant. Keeping the appellant 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 appeal is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the appellant-Anil 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