



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

**CRM-M-3905-2025 (O & M)
Date of decision: 29.01.2025**

JEEVAN ALIAS JEEVAN KUMAR

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vishal Singh, Advocate and
 Mr. Vikas Kumar Sharma, Advocate
 for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. This is the first petition filed under Section 483 of BNSS, 2023, seeking regular bail to the petitioner in case FIR No.41 dated 27.05.2024, registered under Sections 377/506 IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Kathgarh, District SBS Nagar.

2. Tersely put, present case was registered on the statement suffered by victim, wherein he has stated that on 26.05.2024, Chabeel programme was going on in the Gurudwara Sahib of Village Banna and he was performing sewa over there along with other persons. Then at around 07:00 pm, three persons namely Jeevan son of Kala (petitioner herein), Rammy son of Avtar and Sulekh took him to their house and committed unnatural offence with him one by one. Then he made a noise and on hearing his noise, his father Parminder Kumar came at the spot and rescued him from the clutches of said



persons. Thereafter, all the accused ran away from the spot. Then, his father took him to hospital after arranging the vehicle. Hence, the FIR (*supra*) was registered.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case. He refers to the deposition of the victim (Annexure P-2) and submits that categorically, there is no allegation against the petitioner with regard to his sexual exploitation. He further contends that the main accused are Sulekh and Rammi. The petitioner is behind the bars since 27.05.2024 and the investigating agency has already concluded the investigation and presented the final report before the jurisdictional Magistrate on 26.07.2024. Learned counsel further submits that the conclusion of the trial will take long time and further, the material witnesses have already been examined. The petitioner is not involved in any other case.

4. Learned State counsel produces the custody certificate, which is taken on record and *per contra*, opposes the prayer made by the petitioner on the ground that the victim has specifically named the petitioner and his statement was recorded by jurisdictional Magistrate under Section 164 Cr.P.C. and he also identified the petitioner in the Court.

5. A two Judge Bench of Hon'ble Supreme Court in "***Satender Kumar Antil vs. 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 since 29.05.2024 and has undergone a period of 07 months and 30 days as on 28.01.2025 and he is not involved in any other case. The final report under Section 173 Cr.P.C. was presented before the concerned Court. Charges were framed and trial of the case has not made much progress. Out of 09 prosecution witnesses, only one 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 their 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 namely Jeevan *alias* Jeevan Kumar is ordered to be released on regular bail during trial on 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.



CRM-M-3905-2025 (O & M) 4

9. Pending miscellaneous application(s), if any, also stand(s) disposed of.

January 29, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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