



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

225

**CRM-M-39607-2025(O&M)
Decided on: 10.09.2025**

SUBHASH

. . . Petitioner(s)

Versus

STATE OF HARYANA

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Sanchit Punia, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

1. The jurisdiction of this Court has been invoked under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case FIR No.120 dated 28.04.2024, under Sections 354, 354(A)(1)(i) of IPC and Section 10 of POCSO Act, registered at Police Station Adampur, District Hisar.
2. The contents of the aforesaid FIR are reproduced herein below:-

“To the SHO, Mandi Adampur, Hisar. It is requested that I, xxxx W/o xxxx is a resident of Village Kishangarh. Our house is built on the village thoroughfare, and in front of it are the samadhis (memorials) of our elderly grandparents, with an open platform further ahead. Today morning, at approximately 10:30 AM, when four or five young girls were playing there, a person named Subhash S/o Shrichand S/o Shri Ramrakh, caste Khichad Bishnoi, resident of Dhani Sadulpur, came and took my niece, xxxxx D/o Late Sudhir Godara, aged approximately 8 years and 7 months, into the adjacent room. When the children screamed, I immediately reached the spot and saw him doing something inappropriate with the child. Seeing me, he ran away. I then consoled the child, and upon my shouting, the male members of my house and neighbors came and caught Subhash. We then called the police. The police immediately arrived at the spot, apprehended him, and took him to the police station. I request that legal action be taken against Subhash and justice be served to the child. Sincerely, Sd/-xxx”



3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case on the statement of the aunt of the prosecutrix alleging that he had touched the minor girl, particularly her face, inappropriately. It is submitted that the instant FIR is a result of previous enmity between the petitioner and the relatives of the complainant. There exists material contradictions in the statements of the prosecutrix made under Section 161 and 164 Cr.P.C. There is no incriminating evidence against the petitioner, and neither has been any independent person made a witness, despite the alleged incident having purportedly occurred at a public place. The petitioner has already undergone an actual custody of 01 year, 04 months and 08 days.

4. *Per contra* learned State counsel has opposed the bail and submits that the petitioner was actively involved in the commission of the alleged offence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 01 year, 04 months and 08 days. Two other FIRs had been registered against the petitioner-while he was acquitted in the first one, an order of conviction was passed against him in the second FIR under Section 302 read with Section 34 IPC, however his sentence thereunder was suspended vide order dated 24.10.2017. He on instructions from investigating officer submits that charges were framed on 28.10.2024 and out of a total of 15 prosecution witnesses, only 01 i.e. prosecutrix has been examined till date. He, however, submits that in view of the serious allegations against the petitioner, petitioner is not entitled to the concession of regular bail.

5. Heard the rival submissions made by learned counsel for the parties.

6. From a perusal of the case in hand, it transpires that the petitioner is behind the bars since 29.04.2024. 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 charges were framed on 28.10.2024 and out of a total of 15 prosecution witnesses, only 01 i.e. prosecutrix has been examined till date. 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 including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another”, (2018) 3 SCC 22.**

7. As regards the submission of learned State counsel that petitioner is involved in one more criminal case, it has been held by the Hon’ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced herein-below:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety



bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner shall not commit an offence similar to the offence of which she is accused of, or for commission of which he is suspected.
- (V) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

9. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

10. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

11. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

10.09.2025

Kavita

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