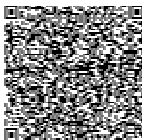


2025.PHHC:070111



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

Sr. No.207CRM-M-27346-2025 (O&M)
Date of decision : 23.05.2025

Vijay Kumar @ Abhi

..... Petitioner

VERSUS

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Kushager Goyal, Advocate, for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

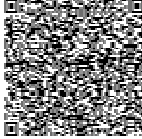
KIRTI SINGH, J. (Oral)

The jurisdiction of this Court has been invoked under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) for grant of regular bail to the petitioner in case FIR No.226 dated 23.05.2023 under Sections 120-B, 366 & 376 IPC (Section 376-D was added later on), registered at Police Station Sadar Sirsa, Haryana.

2. The translated version of the FIR is reproduced below:-

'Statement of Nisha Rani d/o Baldev Singh r/o Mallekan, aged 18 years 2 months, Mob. No.99924-75085 stated that I am the resident of above address and pursuing 12th class in Govt. School Mallekan. Me and my family members used to go to different villages for labour work. Where one Rachna w/o Pala and her husband Pala s/o unknown r/o Maujdeen met me. Rachna asked me how many brother and sister are you and who are their in your family. Rachna told me that one Abhishek is the son of my Jeth and she will get her marriage done with him, in case you agree and then she gave me one mobile phone and asked me to have the talks with me. I started talking with her on phone. On dated 15.05.2023, Rachna said to me that she would get her marriage done with Abhishek. Whatever ornaments of gold and silver you have in your house, you bring the same whenever I would ask you. That at about 2.30 in the noon, Rachna came near our house and she made a phone call to me and I handed over the jewellery of gold and silver to her and also paid Rs. 46000/-. She left away after taking all these items.

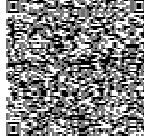
2025.PHHC:070111



She said that I would make a phone call to you and you should be ready. On 16.05.2023, Rachna made a call to me at 3.00 in the morning and asked me to come at the roundabout of the village. When I reached there then Rachna, her husband Pala and Abhishek 4/0 Resham r/o Maujdeen met me and I was sent with Abhishek for the pretext of marriage after alluring me and Rachna and her husband went to their house at Maujdeen. Me and Abhishek went uptill village Mehnakhera by foot where Abhishek committed wrong act with me on unmetald road. Then after some time, one Abhi who was the uncle's son of Abhishek came there and he made me to drink water and due to which, I became unconscious. When I regained consciousness, I, Abhishek and his uncle's son Abhi had reached Jaipur Railway station. Where I was made to sit in one room at Railway station by both and both were talking with someone out side the room. After about half an hour with whom Abhishek and Abhi were talking, came and he took her in a bus. I did not know where Abhishek and Abhi went away. I started weeping in the bus then the said person said that he would drop her in police station. There was one lady in the bus then she left me and that person in police station Kanoda (Jaipur). Then I made a phone call to my father and it was 19.05.2023 on that day and the time was around 7.00 Pm in the evening. Then in the night around 11.00 PM, my maternal aunt Krishna w/o Harmeet Singh, uncle Rajender Singh, my bua's son Charanjeet Singh came at Kanoda police station and I was taken to Alwar in some relative house from police station Kanoda. We stayed in the relative house during night and on 20.5.2023 in the evening, we proceeded to our house to village Mallekan and on 21.05.2023, we reached our house. On reaching house, I narrated the entire ordeal to my family members and I could not go to police station due to not feeling well. That today I came to the police station alongwith my aunt Krishna, uncle Baljeet Singh. Legal action be taken against Abhishek s/o Resham, Rachna w/o Pala, Pala s/o unknown r/o village Maujdeen and Abhi s/o unknown r/o Mehnakhera. I got recorded my statement without any fear and pressure. The statement which is recorded has been heard and the same is correct. Sd/ Nisha, Sd/- Krishna.'

3. Learned counsel for the petitioner *inter alia* submits that a bare perusal of the FIR registered on the statement of the prosecutrix would reveal that the allegations of rape have been leveled only against the co-accused. The only role that has been attributed to the petitioner, who has been falsely implicated in this case, is that at one point in time he was

2025:PHHC:070111



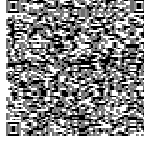
accompanying the prosecutrix and co-accused. There is no incriminating evidence on record to indicate towards the complicity of the petitioner towards the commission of the alleged crime. He also submits that co-accused has already been granted the concession of regular bail vide order dated 24.02.2025 (Annexure P2) passed by this Court in CRM-M-9532-2025. He further submits that the petitioner is a young man of 23 years having clean antecedents and has already undergone an actual custody of 03 months and 02 days.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 03 months and 02 days and there is no any other criminal case registered against him. He on instructions submits that charges were framed on 04.12.2023 and out of a total of 17 prosecution witnesses, none has been examined till date. He submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

6. On a perusal of the case, it transpires that the petitioner is behind the bar since 21.02.2025. 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 out of 17 prosecution witnesses, none has been examined till date. Co-accused has already been

2025.PHHC:070111

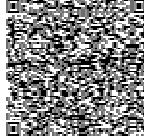


granted the concession of regular bail vide order dated 24.02.2025 (Annexure P2) passed by this Court in CRM-M-9532-2025. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violate 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. Without commenting anything on the merits of the case, lest it may prejudice the trial, 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 he is accused of, or for commission of which he is suspected.

2025.PHHC:070111



(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 from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. 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.

9. 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.

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

(KIRTI SINGH)
JUDGE

23.05.2025

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No