



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-42191-2024 (O&M)

Reserved on : 25.07.2025

Pronounced on: 30.07.2025

PAWAN KUMAR

..... Petitioner

VERSUS

STATE OF HARYANA

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

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

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J.

The jurisdiction of this Court has been invoked under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No.695 dated 28.11.2023, under Section 376, 376(2)(n), 450, 506, 376D, 384 of IPC and Section 6 of POCSO Act (Section 201 & 34 of IPC, 1860 were added later on) registered at Police Station Rania, District Sirsa.

2. The contents of the aforesaid FIR are reproduced herein below:-

"Pxxxxm D/o Bhura Ram R/O Gindran Tehsil Rania District Sirsa, aged about 16 years Mob. xxx stated that I am a resident of the above address and have studied till 9th class and do household work. We are four brothers and sisters. In which there are three sisters and one brother. My two sisters are married and I and my brother are single. I am the youngest among my siblings. My parents work as daily wage labourers. We often visit the house of Ram Swaroop, son of Bahadar Ram, who lives in our neighbourhood. About a year ago, Anilson Kaluram had come to Ramswaroop's house to work as a labourer. Ramswaroop's son Pawan and Anil are very good friends. Due to frequent visits at home, Anil and I started talking to each other and we became friends. Last year, on 6 November 2022, at around 7 o'clock, I had gone to Ramswaroop's house, at that time Ramswaroop and Pawan had gone to the farm and Pawan's mother was feeding the animals. Anil was alone inside the room. Anil said that I love you and want to have sex with you. When I refused him, he forcefully made me fall on the cot and did wrong things with me and he threatened me that if I tell this to anyone, he will defame me. After that, Anil made me friend with his friend Pawan, son of



Ramswaroop. And after that Pawan also started visiting our house more often. That on 10 February 2023, at around 2 pm, when I was alone at home, Pawan came to our house and started talking dirty to me and forcefully had physical relations with me. After that, whenever Pawan and Anil got chance, they did wrong things with me. That on 11-11-2023, when my elder sister Meera had come to our house, Pawan told me that I have your wrong video and If you don't listen to me, I will make it viral, I got scared and when my sister was sleeping at night, I secretly took out the mangalsutra and amulet (Tabiji) from my sister's neck and when my family members slept, I called Pawan and Anil outside the house and gave them Mangalsutra and Tabiji. After that, Pawan's mother Nirmala told me that if you bring me the rest of the jewellery from your house secretly, then I will get you married to Pawan. When I told her that my family members will come to know, I cannot bring it, then Pawan's Mother Nirmala threatened me that if you did not bring money and jewellery from your house, then I would tell the whole village about your and Anali's friendship and would defame you. I got scared and took two pairs of silver anklets from my house, and a gold ring, a nose ring and a pair of silver anklets and Rs 11,000 cash and secretly gave it to Pawan. My family members had informed the police about the theft. When my family members strictly interrogated me, I told the whole truth to my family members and my family members took me to the police station. Anil son of Kaluram resident of Dholpaliya and Pawan son of Ramswaroop have done wrong things to me and Pawan's mother has threatened me. Legal action should be taken against these three. I have recorded my statement to you, I read it and it is correct. I have given my statement in front of my mother. Sd. Pxxxm RTI ”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case on the statement of the prosecutrix, alleging that the petitioner and co-accused Anil had established forceful physical relations with the prosecutrix, thereafter threatening to release her objectionable photographs/videos. It is submitted that the instant FIR was registered after an inordinate and unexplained delay of over 9 months; since the first instance of the alleged sexual assault by the petitioner is stated to have been committed on 10.02.2023, whereas the instant FIR was registered on 28.11.2023. Further, even the statement of the prosecutrix made under Section 164 Cr.P.C. is vague, lacking specifications with respect to the alleged offences that the petitioner has been charged of. There is no evidence on record, including any medical or forensic report, to corroborate the averments made by the prosecutrix. Even the recovery of the said jewellery was done on the statement of the co-accused. He further



submits that mother of petitioner has been granted anticipatory bail (Annexure P-4). The petitioner is a 24 year old man of clean antecedents, and has been in custody since 03.12.2023.

4. Learned State counsel 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, 07 months and 21 days and there is no other case registered against him. He on instructions from investigating officer submits that charges were framed on 11.03.2024 and all of the total 14 prosecution witnesses are yet to be examined. He, however, 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. From a perusal of the case in hand, it transpires that the petitioner is behind the bars since 03.12.2023. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The trial of the case has not made much progress, as charges were framed on 11.03.2024 and out of the total 14 prosecution witnesses, none has been examined. 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. 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.

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.

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

(KIRTI SINGH)
JUDGE

30.07.2025

Kavita

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No