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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Decided on: 19.03.2025

Vinay Kumar Tiwari @ Rahul Tiwari

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGHPresent : Mr. Nirmaljeet Singh Sidhu, Advocate
for the petitioner.

Mr. Anmol Malik, DAG Haryana

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 of Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.344 dated 05.06.2024, under Section 346 (Later on Section 346 IPC was deleted and Section 376 IPC has been added) registered at Police Station Chandnibagh, District Panipat, Haryana.

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

“Copy of application. To, The Station House Officer Police Station Chandnibagh, Panipat. Sir, It is requested that 1, Sita wife of Nandan resident of Ojha Road, Near Sai Baba Mandir, Panipat On dated 04.06.2024 at 9 AM, we went to our work. My younger son and daughters, all three were present at home. She has not gone for work Her name is Moni. Her age is about 20 years. My both children were sleeping. When they awake, my elder daughter Moni was not found.



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Her phone number is 7461837223 and now it is switched off. Sunny and Moni both were doing work in the same factory. The phone of Sunny is also switched off. His mobile number is 8950920363. They are missing since afternoon from today. Since today afternoon, we are tracing them, but they are not found. It is requested to kindly trace out my daughter Moni. I shall be thankful to you. She has gone with Rs.8000/- from house and she has got an amount of Rs. 5000/- in advance from factory. LTI Sita. ”

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case which was registered on the statement of the mother of the prosecutrix. He contends that both the petitioner and the prosecutrix were in fact, consenting adults in a love relationship. To buttress his submissions, learned counsel places reliance on the MLR dated 10.06.2024 (Annexure P-3) indicating the absence of any internal injury marks on the person of the accused. It is further stated that the petitioner has been in custody since 06.09.2024 and it is also submitted that both the complainant and the prosecutrix have turned hostile.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. Learned State counsel on instructions submits that charges were framed on 20.11.2024 and out of a total of 15 prosecution witnesses, 02 prosecution witnesses have been examined. He further submits that petitioner has undergone an actual custody of 06 months and 12 days and there is no other case pending against him. Thus, in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail. However, learned State counsel does not controvert the fact that the complainant and prosecutrix have turned hostile.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since



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06.09.2024. The final report under Section 173 Cr.P.C. was presented before learned Additional Sessions Judge, Fast Track Court, Panipat. The complainant and the prosecutrix have turned hostile. The trial of the case has not made much progress as out of 15 prosecution witnesses, 02 prosecution witnesses have been examined so far. Moreover, both the material witnesses i.e. the complainant and prosecutrix have turned hostile. 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.*

6. 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.
- (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



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evidence.

7. 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.

8. 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.

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

(KIRTI SINGH)
JUDGE

19.03.2025

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