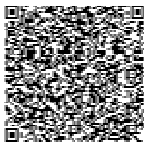


2025:PHHC:101107



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

Sr. No.225

CRM-M-6664-2025(O&M)

Date of decision : 6.8.2025

Jagdish Pandit @ Kala

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Vishal Sharma (Vasudeva), Advocate, for the petitioner.

Mr. Brijesh Sharma, AAG Haryana.

Mr. Rakesh Gupta, Advocate for the complainant.

KIRTI SINGH, J. (Oral)

This is a second petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) for grant of regular bail to the petitioner in case FIR No.32 dated 27.4.2023 under Sections 323, 376(2)(L) and 506 IPC and Sections 324 & 377 IPC added later on, registered at Women Police Station, Ambala, District Ambala.

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

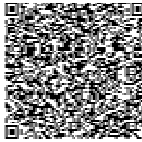
“A compliant number 116-Local dated 27.04.2023 from Sharda Kumari wife of Jatinder Mohan Mehta resident of House No.501-B/12 Sethi Nagar received in Ambala City Police Station, the copy of application is The Incharge Women Police Station Ambala City. Subject: Regarding Insolence with my daughter by Jagdish alias Kala and his son and giving beatings to my son. Sir, It is requested that I Sharda Kumari wife of Jatinder Mohan Mehta is the resident of House No.501-B/12 Sethi Nagar. The back door of Rajan saree showroom is in front of our house. In which Jagdish alias Kala is the watchman. My daughter and my son live with me at my house.

2025.PHHC:101107



Another son lives in Sector 9 and sometimes stays here with me. My daughter is 75% mentally challenged, whose certificate is attached. Both my sons had gone out on 22/23.4.2023. Me and my daughter both of us were at home. Jagdish used to visit our house earlier also, he knew that both my sons were not at home. Took advantage of it. I was asleep at that time. Jagdish knocked on our back door at about 11-12. My daughter understood that brother had come, she opened the door and Jagdish forcefully took her by the arm and took her to the nearby ruins. When I opened my eyes after a while, daughter was not there. I got upset not seeing her. When I looked at the back door, It was open. When I came out, I saw from the ruined window that Jagdish saw me and took his clothes and ran away from the other door. I went inside and saw that my daughter was not in well condition. I fixed her clothes and brought her home. My daughter was in shock and I was also in panic. We all started taking care of the daughter. Later I told the sons that Jagdish had misbehaved with the daughter. On which me and my younger son Ajay called Jagdish out of the showroom on 24.4.2023 at around 1.30/2 and said that you should be ashamed, my daughter is mentally challenged and you are like her father. On which Jagdish alias Kala started abusing us and came out of the showroom. He pushed me, when I could not control myself and fell down, my son started saving me, from behind Jagdish's son and his two companions hit son Ajay on the head with an iron weapon and his friends and his son slapped and punched my son Ajay Mehta. My son got a wound on his head and started bleeding. On raising alarm to save, Sandeep, Kush Kumar, Baijnath, Ashwini Goyal etc., who were living nearby got released from the culprits and threatened that today you have been saved, will see you later. On which I called on 112 number. Police reached the spot. My daughter's mental condition is not well, we remained busy in her

2025:PHHC:101107



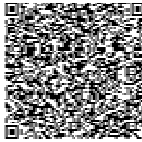
treatment. Now requesting in front of you. My daughter's name is Charu. Therefore, you are requested that strict legal action should be taken against the above culprits and our life and property should be protected. My daughter is already mentally challenged and misbehaved with her so much. It would be a great favour by you. Dated: 9050538866 Applicant, Sharda Kumari 501-8-12 Sethi Nagar Ambala City.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case on the complaint made by the mother of the prosecutrix, which was moved after an inexplicable delay of more than 03 days. It is furthermore submitted that though it has been contended that the prosecutrix is disabled, but it cannot be countenanced since the prosecutrix is a stable minded person who has also cleared her matriculation exam. Even otherwise, the point of disability is a disputed question of fact which would be proved during the course of the trial. Moreover, there is no history of sexual assault as per the first medical examination of the prosecutrix. Existence of material improvements as also contradictions in the testimony of the prosecutrix is also highlighted. Lastly, it is submitted that the petitioner has already undergone a prolonged custody period of 02 years, 03 months and 07 days and is not involved in other criminal case.

4. *Per contra*, learned counsel for the complainant has opposed the petition and submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Learned State counsel 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

2025:PHHC:101107

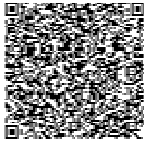


petitioner has undergone an actual custody of 02 years, 03 months and 07 days and there is no other criminal case registered against him. He on instructions from the concerned investigating officer submits that charges were framed on 9.11.2023 and out of a total of 25 prosecution witnesses, 13 have been examined till date.

6. Heard the submissions made by learned counsel for the parties.
7. On a perusal of the case in hand, it transpires that the petitioner is behind the bar since 29.4.2023, 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 25 prosecution witnesses, only 13 witnesses have been examined so far. The material witnesses have been examined. The arguments raised herein are disputed questions of fact, veracity of which would be established during the course of the trial; and so would the culpability, if any, be determined in due course. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention, him having already remained in custody for 02 years, 03 months and 07 days, 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.

8. 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

2025.PHHC:101107



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

- (I) The petitioner(s) will not tamper with the evidence during the trial.
- (II) The petitioner(s) will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner(s) will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The petitioner(s) 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(s) 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.

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.

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

(KIRTI SINGH)
JUDGE

6.8.2025

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No