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

Sr. No.217

CRM-M-20452-2025 (O&M)
Date of decision : 19.05.2025

Okesh @ Golu @ Om

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. B.S. Tewatia, Advocate, for the applicant-petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH, J. (Oral)**CRM-20659-2025**

1. The application is allowed as prayed for. Annexure P3 is taken on record.

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2. The jurisdiction of this Court under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) has been invoked for grant of regular bail to the petitioner in case FIR No.804 dated 17.10.2024 under Sections 75(2) & 76 of BNS 2023 (later on added Sections 62 & 64 of BNS, 2023), registered at Police Station Camp Palwal, District Palwal.

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

“To, the Incharge, Police post Kithwadi Pull, Subject-Kusum was dragged from the street, her clothes were torn and tried to rape. Sir, I request that I am Kusum, wife of Ravindra r/o Aara Machine Street, Krishna Colony. On the evening at about 6.30 PM I was coming after purchasing vegetables when Golu alias Om, son of Shri Kailash, who lives in Aara Machine Street, Krishna Colony, Palwal, suddenly caught my hair from

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behind and dragged me to his house, tore my clothes and tried to rape me. On raising an alarm the women of the street Rajbala wife of Vinod (Krishna Colony), Oma wife of Satish Kumar (Krishna Colony) and Usha wife of Raju (Krishna Colony) came and rescued me with great difficulty. We and the people of the colony have complained about him many times. His behavior is indecent throughout the day. He takes off all his clothes and roams naked on the balcony and terrace. Sir, it is requested that strict action be taken against him. It would be highly grateful. Applicant KUSUM MOBILE-9254430913 (Kusum),”

4. Learned counsel for the petitioner *inter alia* submits that the petitioner is a young man of 26 years who has been falsely implicated in the present case on the statement of the complainant, accusing him of indecent behavior and alleging that he assaulted her. While refuting the allegations leveled against the petitioner as baseless, learned counsel submits that there is no evidence on record to prove the same. Infact, the complainant has CCTV cameras installed in her house but footage from the same was not given to the investigating agency along with the complaint. It is the further submission that the petitioner resides with her mother, who being unable to walk mostly stays indoor, and that occurrence of such an event in her presence is improbable. There is also no medical evidence against the petitioner. The victim has been examined. The petitioner has undergone an actual custody of 06 months and 29 days and is not involved in any other criminal case.

5. *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

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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 06 months and 29 days and there is no any other criminal case registered against him. He on instructions submits that charges were framed on 04.02.2025 and out of a total of 14 prosecution witnesses, 01 witness 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.

6. Heard the rival 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 18.10.2024. 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 out of 14 prosecution witnesses, only 01 witness has been examined so far. The victim 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.

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

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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 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

19.05.2025

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No