



CRM-M-63955-2024(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-63955-2024(O&M)
Decided on: 19.03.2025

Happy

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Deepak Arora, Advocate for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

This petition under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 has been filed for grant of regular bail to the petitioner in case FIR No.60 dated 02.11.2024, under Sections 75 and 126(2) of BNS, registered at Police Station Bhaini Mian Khan, District Gurdaspur.

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

“Statement of Satvir Kaur daughter of Gurmej Singh, resident of Village Raju Bella age about 20 years, Mobile NO. 7340749817 stated that I am resident of above said address and I am employed in a private job in Thisway mart, Karyana store run by Malkit Singh son of Gurmeet Singh resident of village Chak Shareef. On 01.11.2024 after my duties were over and I was returning from Thisway mart karyana store on my scooter Maestro No. PB06 AY 6723 towards my village Raju Bella. After taking medicine from Bhaini Mian Khan then just ahead of Mahindra Palace Bhaini Mian Khan towards Chhichhra road pull side when I reached there it was about 5 p.m. and from my backside a hair cut young person came on a motor cycle and while getting his motorcycle along

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with my motorcycle, the said person started touching me and thereafter he stopped his motorcycle in front of my scooty and started molesting me while touching my body with his hand and further had touched my chest with hand. Then I opposed the same and I had seen that the said person was resident of our village namely Happy son of Tarsem mash, resident of village Raju Bella then I raised raula in loud voice and in the meantime ex-sarpanch of village namely Bhagwant Singh son of Gurmukh Singh, resident of village Raju Bella came on his vehicle from Raju Bela side and the said person while seeing Bhagwant Singh on spot ran away from spot and thereafter I return to my house and told the entire facts to my mother Daljit Kaur and thereafter I along with my mother Daljit Kaur along with Bhagwant Singh ex-sarpanch were going to report the incident to police station that you have met us. Legal action may kindly be taken against abovesaid Happy. I had recorded my statement and read over the same which is correct. Sd/- Satvir Kaur abovesaid. Sd/- Daljit Kaur wife of Gurmej Sigh resident of village Raju Bella, attested by LR/ HC Harpreet Kaur 619/ Gurdaspur, Bhaini Mian Khan dated 02.11.2024.”

3. Learned counsel appearing for the petitioner submits that petitioner has been falsely implicated in the case at hand for allegedly molesting the prosecutrix. He further submits that the present FIR is a result of political friction since his family did not support the side which subsequently lost the Gram Panchayat elections and also submits that the accused was not present where the alleged occurrence took place. The petitioner has undergone an actual custody of 04 months and 03 days and there is no other case registered against him.

4. *Per contra* learned State counsel has opposed the bail and submits that the petitioner was actively involved in the commission of the alleged offence. He has filed custody certificate and reply in Court today and the same are taken on record. As per custody certificate, the petitioner has

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undergone actual custody of 04 months and 03 days. He on instructions from investigating officer submits that charges were framed on 04.01.2025 and out of total of 13 prosecution witnesses; none has been examined till date. 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 03.11.2024. 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 charges were framed on 04.01.2025 and out of total of 13 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 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. 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.

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(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

19.03.2025

Kapil

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