



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

207

**Criminal Misc. No. M-1547 of 2025
Date of decision :-20.01.2025**

Jagdish**.....Petitioner****Versus****State of Haryana****.....Respondent****CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Pooja Jaglan, Advocate
for the petitioner.

Mr. Dushyant Saharan, AAG, Haryana.

NIDHI GUPTA J. (Oral)

Prayer in this 2nd petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during pendency of the trial in case FIR No.0010 dated 16.1.2024 (Annexure P-1) under Sections 328, 365, 376-D and 506 IPC (Section 346 IPC deleted), registered at Police Station Panipat Sadar, Panipat.

Learned counsel for the petitioner, *inter alia* submits that the present FIR (Annexure P-1) has been registered on the basis of statement made by the father of the victim, which reads as follows :-

“..... the victim, aged 18 years 5 months, date of birth being 03.07.2005, used to visit Malhotra Computer Centre, Bishan Swaroop colony for learning computer. On 16.01.2024 at about 10.00 AM, the daughter of complainant went to computer centre, and she had not come back. The physical description of the victim and clothes worn by her



is given in the complaint and prayer for searching her was made. On the complaint, formal FIR under section 346 IPC was lodged in police station Panipat sadar.”

Learned counsel submits that from the above, it is clear that the petitioner has not been named in the FIR. Subsequently, the victim had returned home on her own accord and recorded her statement under Section 164 Cr.P.C. (Annexure P-3) on 26.2.2024,, wherein it was now alleged that the petitioner alongwith two other co-accused had committed rape upon the victim. Learned counsel submits that the allegations made against the petitioner are false and fabricated. Even as per the MLR (Annexure P-2) there is no medical evidence to implicate the petitioner with the alleged crime. Furthermore, the co-accused of the petitioner, namely, Gurmeet has been granted regular bail by this Court vide order dated 04.10.2024 (Annexure P-5) passed in CRM-M-49221-2024; and co-accused Yash has also been granted regular bail by this Court vide order dated 13.11.2024 passed in CRM-M-55709-2024. Learned counsel further points out that the victim is not appearing before the learned trial Court as prosecution witness since 01.8.2024, as is evident from the zimni orders (Annexure P-6 colly.) Learned counsel further submits that due to her constant non-appearance since 01.8.2024, the victim has been summoned by the learned trial Court throughailable-warrants to procure her presence as a prosecution witness. The petitioner is behind the bars for almost one year and therefore learned counsel for the petitioner prays for grant of regular bail to the petitioner.



Notice of motion.

On asking of the Court, Mr. Dushyant Saharan, AAG, Haryana accepts notice on behalf of respondent-State, opposes the prayer made on behalf of petitioner and submits that the petitioner is differently placed from the other co-accused because the petitioner can be seen in the CCTV footage recovered from the alleged place of occurrence. It is further submitted that as per the MLR (Annexure P-2) there is reddish bruise over the right side of neck of the victim. Learned State counsel has filed the Custody Certificate dated 17.1.2025 in Court. The same is taken on record. Copy thereof is supplied to the counsel opposite. As per the Custody Certificate, the petitioner has undergone the actual custody of 11 months and 26 days as undertrial. Learned State counsel further informs that as per the said Custody Certificate, the petitioner is involved in eight more FIRs.

Learned counsel for the petitioner counters the submission of learned counsel for the State and submits that the petitioner has been acquitted in all the other eight cases as mentioned in the Custody Certificate.

Learned State counsel, on instructions further informs that the challan in the case has been presented on 14.3.2024; charges have been framed on 15.5.2024; and out of total 28 prosecution witnesses, only 02 witnesses have been examined so far.

Having heard learned counsel for the parties, but without commenting on merits of the case, however, keeping in view the totality of the facts and circumstances of the case including: a) the custody period of 11 months and 26 days undergone by the petitioner



as an undertrial; and b) out of total 28 prosecution witnesses, 02 witnesses have been examined so far, therefore, the conclusion of trial will take considerable time and no useful purpose would be served by further detention of the petitioner.

Thus, the present petition is **allowed**.

The petitioner-Jagdish s/o Rattan Lal, is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

Pending application, if any, stands disposed of.

January 20, 2025

Vijay Asija

(**NIDHI GUPTA**)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No