



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CRM-M-55022-2024(O&M)
Decided on : 27.02.2025

RAM KUMAR

. . . Petitioner(s)

Versus

STATE OF HARYANA

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Abhimanu Jangra, Advocate
for the petitioner(s).

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.46 dated 22.04.2022 under Section 506 IPC and Section 6 of POCSO Act, 2012, registered at Police Station Women Central Faridabad, District Faridabad.

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

“Respected Sir, I am Nazma, wife of Babu Khan, addressed at 0-8, near Kali Mandir, Shiv Colony Bypass, Shiv Colony Bypass Road, Faridabad, presently a tenant and a house owner, resident of village Barauli. I have four children. Three girls and one boy. My husband is a labourer. I do the work of sweeping and cleaning in Kothees. My second daughter Arxxxxx, whose age is 15 years, studies in 8th class. My daughter told me that she is not menstruating since several months. So, I brought her to B.K. Hospital today. The Doctor at the hospital told us that she is about 8 months pregnant. When I asked my daughter about it, she told me that there is a boy living in our neighbourhood who was staying on rent. She is telling me his name as Ramkumar. He used to rape my daughter many times and made her do it by threatening her that, "if she tells anyone about this in her house then I will kill her". And he kept raping her repeatedly, I want to take legal action against him. SD: Mother Najma.”



3. Learned counsel for the petitioner submits that the petitioner, a young man in his early 20's, has been falsely implicated in the present case. There is an unexplained delay of eight months in the registration of the FIR. It is further submitted that there are various inconsistencies in the statement of the prosecutrix. Reliance is placed on Annexure P-12, which contains the cross-examination of the prosecutrix, wherein she has stated that the police as also the Child Welfare Committee (CWC) and legal aid counsel obtained her signatures on blank papers. There are also contradictions in the stand of the victim regarding the occurrence of the alleged incidents; wherein her statement before the legal aid counsel and also during her cross-examination, she stated that the date of the incident to be 15.06.2024 whereas in her cross-examination, she initially confirmed the date but later on asking of the defence counsel, resiled from her statement mentioned that she does not remember the date. Furthermore, in her cross-examination, the prosecutrix admitted that her statement under Section 164 Cr.P.C. was tutored by her parents and the police. Learned counsel also draws the attention of this Hon'ble Court to the judgment passed in CRM-M-33894-2024, which was moved by the petitioner seeking presentation of the DNA analysis report, wherein it was categorically stated that the integrity of the DNA samples had been compromised, thereby rendering the DNA report as inconclusive. He further submits that the petitioner has undergone an actual custody of 02 years, 10 months and 02 days and there is no other case registered against him.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He has 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 02 years, 10 months and 02 days and there is no other case registered against him. He on instructions submits that charges were framed on 20.09.2022 and out of a total of 17 prosecution witnesses, only 05 have 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. 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 24.04.2022. There are discrepancies in the statement of the prosecutrix. The DNA report also remains inconclusive. 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 17 prosecution witnesses, only five have been examined so far. Therefore, the trial in the present case will not conclude anytime soon. 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. 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 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.

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

(KIRTI SINGH)
JUDGE

27.02.2025
Kavita

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