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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-4537-2025

Date of Decision: 08.04.2025

Bagu alias Baaga

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGHPresent:-. Mr. Anmol Jeevan Singh Gill, Advocate
for the petitioner

Mr. R.S. Thind, DAG Punjab

KIRTI SINGH, J.(Oral)

This is the second petition filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail in case FIR No.63 dated 22.04.2023, under Sections 342, 366, 376-D, 506, 201 IPC, 1860, and Section 4 of the POCSO Act, 2012 added later on registered at Police Station Sarhali, District Tarn Taran.

2. This Court, while issuing notice of motion, passed the following order on 07.02.2025:-

“1. This is the second petition filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking anticipatory bail in case FIR No.63 dated 22.04.2023, under Sections 342, 366, 376-D, 506, 201 IPC, 1860, and Section 4 of the POCSO Act, 2012 added later on registered at Police Station Sarhali, District Tarn Taran.

2. The first petition filed by the petitioner was dismissed on 27.08.2024 by recording the following observations:-

“5. The present case was registered at the instance of the



prosecutrix herself, who has alleged that on the night of 18.04.2023, when she along with her family members went to sleep after taking dinner, then taking the advantage of the darkness, Ali-co-accused of the petitioner came to her house and she was taken to an unknown place in a car. The petitioner, who is brother of Ali along with 2-3 persons were also present at that time and they assisted the coaccused-Ali to forcibly taking the prosecutrix from there. As per the FIR, the co-accused-Ali committed rape upon the prosecutrix against her wishes and next day in the morning the prosecutrix was thrown outside her residence.

6. Learned State counsel has submitted copy of the For Subsequent orders see CRM-9374-2025 statement of the prosecutrix recorded under Section 164 Cr.P.C. on 27.04.2023 and the same is taken on record. Though in the said statement, the prosecutrix has not levelled allegations of sexual abuse against the co-accused-Ali, however, she has supported her allegations that the petitioner along with co-accused had forcibly taken her in a car on the said date. The age of the prosecutrix is recorded as 16 years in the statement recorded under Section 164 Cr.P.C.

7. Keeping in view the specific allegations against the petitioner in the FIR; in the statement of the prosecutrix recorded under Section 164 Cr.P.C. and considering the age of the victim, the petitioner is not entitled for concession of anticipatory bail.”

3. Notice of motion.

4. On advance notice, Mr. Rahul Jindal, AAG Punjab appears on behalf of the State.

5. Learned counsel for the petitioner contends that after the dismissal of the first petition by this Court on 27.08.2024, co-accused Ali Sain @ Ranu has been acquitted by the trial Court vide judgment dated 19.11.2024. It is further contended that the trial Court has also



*noticed that apart from the witnesses having turned hostile, the prosecutrix did not give consent for her medical examination, which has come in the deposition of PW-4 Dr. Sandeep Kaur. Referring to the decision by the Hon'ble Apex Court in **Babu Singh and others Vs. The State of U.P. 1978 AIR (Supreme Court) 527** and the decision by the Co-Ordinate Bench in **Bhisham Singh Vs. State of Haryana in CRM-M-13315-2024** decided on 09.04.2024, it is submitted that the 2nd/successive anticipatory bail petition filed under Section 438 of Cr.P.C., 1973 is maintainable as there is substantial change of circumstances in the present case.*

6. *Learned State counsel opposes the present petition on the ground that the first petition was dismissed on 27.08.2024 on merits and 2nd petition is not maintainable. However, confirms the fact that the judgment of acquittal dated 19.11.2024 passed by the trial Court has not been challenged by way of filing the appeal.*

7. *Adjourned to 28.03.2025.*

8. *In the meanwhile, the petitioner is directed to join investigation within ten days and in the event of arrest, he shall be released on interim bail, to the satisfaction of the arresting officer/Area Magistrate, subject to furnishing bonds/surety, and also subject to the following conditions:-*

(i) That the petitioner shall further make himself available for interrogation by a police officer as and when required.

(ii) That 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.

(iii) That the petitioner shall not leave India without the prior permission of the Trial Court/CJM concerned.

3. Thereafter, vide order dated 12.03.2025, the petitioner was again directed to join investigation.



4. Learned State counsel on instructions from ASI Kirpal Singh submits that the petitioner has joined the investigation and is not required for any further investigation.
5. Having considered the aforesaid facts and circumstances, the petition is allowed. Order dated 12.03.2025 passed by this Court, is hereby made absolute.
6. This order should not be treated as "blanket" order. It will not be read granting the petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
7. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency to investigate into the charges against the petitioner.
8. The accused/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 or her from disclosing such facts to the Court or to any police officer.
9. The accused/petitioner shall not leave India without prior permission of the Court.
10. The accused/petitioner shall join the investigation as and when called by the police.
11. It will be open to the police or the investigating agency to move to this Court for a direction under Section 483(3) BNSS (erstwhile Section 439(2) of the Code of Criminal Procedure, 1973) to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion,



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intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

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

08.04.2025

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Whether speaking/reasoned
Whether reportable

(KIRTI SINGH)
JUDGE

Yes/No
Yes/No