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

Sr. No.103+218

**CRM-M-54604-2024(O&M)
Date of decision : 08.05.2025**

Malkit Singh

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Subhash Kumar, Advocate, for the applicant-petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

KIRTI SINGH, J. (Oral)

CRM-17890-2025

The application is allowed as prayed for.

CRM-17891-2025

2 The application is allowed as prayed for. Annexure A-1 is taken on record.

CRM-17892-2025

3 This application has been filed under Section 528 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) read with Section 483 of BNSS, 2023 to add Sections 65(1) & 87 of BNS in FIR No.79 dated 11.07.2024, Police Station Mehatpur, District Jalandhar and delete Sections 96, 61(2), 64 of BNS from the said FIR and for consideration of regular bail to the applicant-petitioner under newly added sections.

4 Notice of the application.

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5 At the asking of the Court, Ms. Aakanksha Gupta, AAG, Punjab, accepts notice on behalf of the respondent-State and has no objection if the application is allowed.

6 Accordingly, the application is allowed and Sections 65(1) & 87 of BNS are added in FIR No.79 dated 11.07.2024, Police Station Mehatpur, District Jalandhar and Sections 96, 61(2), 64 of BNS deleted from the said FIR.

Registry is directed to carry out the necessary corrections in the head note and the prayer clause of the petition.

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7 The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.79 dated 11.07.2024, under Sections 65(1), 87 & 137(2) of BNS, 2023 and Sections 5/6 of POCSO Act, registered at Police Station Mehatpur, District Jalandhar.

8 The translated version of the FIR is reproduced below:-

“Statement of Kulwinder Kaur, wife of Malkit Singh, resident of Village Gosuwal, Police Station Mehtpur, District Jalandhar (Rural), aged about 36 years, ID: No. 78144-88075. Declared that I am a resident of the said address and doing housework. I was married to Malkit Singh, son of Pritha Singh, resident of village Goswal. From which marriage I have a son Kuldeep Singh Happy age about 18 years, a girl Mamta age about 14 years and a girl Puja age about 12 years. All my three children study in government school Mehtpur. That my daughter Mamta who used to take computer course in IFG Institute Center Sidhwan Bet (Ludhiana) and my son Kuldeep Singh Happy also used to take computer course there with my

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daughter. Kulwinder Kaur daughter Pritam Singh resident of Akkuwal, Tehsil Jagrao, who also used to do computer course there and she is my daughter Mamta's friend. My daughter Mamta's birthday was on 29.06.2024. She went to IFG Institute Center Sidhwa Bet (Ludhiana) as usual with my girl Mamta and my boy Kuldeep Singh to take a computer course. My son Kuldeep Singh came home and told me that Mamta's friend Kulwinder Kaur daughter of Pritam Singh resident of Akkuwal Tehsil Jagrao told him that you should go to home, we have to celebrate birthday party. When my daughter Mamta did not come home till the evening, I called her friend Kulwinder Kaur on my son's mobile number 88376-70074 of Kulwinder Kaur, but she said that we both went from IFG Institute Center Siddhwa Bet (Ludhiana) to laba Muradshah to Nakodar, we alighted from bus near Bus Stand Maheru Pulli. Where Malkit Singh son of Shingara Singh Goswal and 3 other youths come along with him who took Mamta along with them and I come back to home. I don't know Mamata has gone with them. I have been searching for my daughter till today I am sure that she has not been found anywhere. I am sure that my daughter mamta was abducted by Malkit Singh son of Shingara Singh village Gosuwal police station Mehtpur District Jalandhar, on the pretext of solemnizing marriage with her and he has taken me somewhere and I am also fully assure of this fact that Kulwinder Kaur daughter of Pritam Singh, resident of Akkuwal Tehsil Jagrao is having hand in glove in sending my daughter Mamta. Please search for my daughter and take my daughter back and take appropriate legal action against the accused. Today I come present in police station and wrote my above statement in the presence of my husband Malkit Singh. It is correct. Kulwinder Kaur Sd/-, Sd/- Malkit Singh attested by Jaspal Singh ASI Police Station Mehtpur District Jalandhar (Rural) Date 11.07.2024”

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9 Learned counsel for the petitioner *inter alia* submits that the petitioner is a young boy of 18 years of age and has been falsely implicated in this case on the statement of the mother of the prosecutrix. He further submits that the petitioner and victim were known to each other and there is no medical evidence to substantiate the allegations leveled against him. The material witnesses have been examined before the learned trial Court. He further submits that the petitioner has undergone an actual custody of 09 months and 12 days and is not involved in any other criminal case.

10 *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. She states that the petitioner was actively involved in the commission of the offence. She 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 09 months and 12 days and there is no any other criminal case registered against him. She on instructions from SI-Gurnam Singh submits that charges were framed on 22.11.2024 and out of a total of 20 prosecution witnesses, 07 has been examined till date. She submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

11 Heard the rival submissions made by learned counsel for the parties.

12 On a perusal of the case in hand, it transpires that the petitioner is behind the bar since 25.07.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court

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and trial of the case has not made much progress as out of 20 prosecution witnesses, only 07 witnesses have been examined so far. The material witnesses have been examined. The petitioner has undergone an actual custody of 09 months and 12 days and is not involved in any other criminal case. 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.

13 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.

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(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.

14 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.

15 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

08.05.2025

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No