



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

216

CRM-M-32935-2025(O&M)
Decided on: 05.08.2025

SHIVA

. . . Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Sanchit Punia, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

1. The jurisdiction of this Court has been invoked under Section 483 of BNSS for grant of regular bail to the petitioner in case FIR No.18 dated 07.01.2024, under Sections 363, 365, 366, 376(2)(n), 376(3) and 506 IPC and Sections 6 and 10 of POCSO Act, registered at Police Station Sadar Hisar, District Hisar.

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

“To, the SHO Police Station Sadar Hisar. Sir, it is requested that I, Kavita, wife of Satish Kumar, am a resident of Mirzapur. I have two daughters and one son. My husband has passed away. My second daughter, xxx, whose date of birth is 14.03.08, was alone at home yesterday, dated 06/01/24. When I returned home in the evening, I did not find my daughter xxx at home. My daughter has fair complexion, a round face, a thin body, and her height is 4 feet 6 inches. We suspect that some person has abducted my daughter. Legal action should be taken against the unknown person and my daughter should be recovered. RTI - Applicant RTI Kavita ”



3. Learned counsel for the petitioner submits that the petitioner, a young man aged 22 years, has been falsely implicated in the present case, which was initially registered on the basis of the missing complaint made by the mother of the prosecutrix. It is submitted that the petitioner was not even named in the FIR in the first instance. Further, even the prosecutrix, while appearing as PW1 during the trial, did not support the prosecution version and was declared hostile. She did not depose anything incriminating against the petitioner. On the contrary, she categorically denied in her testimony that the petitioner ever wrongfully or secretly confined her, threatened to kill her, or committed any act of sexual assault upon her. Reliance is placed on her statement, annexed as Annexure P-2. There is also no medical evidence on record to substantiate the allegations. It is further submitted that the petitioner has since solemnized marriage with the prosecutrix. The petitioner is in custody since 10.10.2024, for a period is 09 months and 25 days till date; 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 in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 09 months and 25 days and there is no other case registered against him. He on instructions from investigating officer submits that charges were framed on 01.05.2025 and out of total of 23 prosecution witnesses, 01 witness i.e. prosecutrix, has been examined till date. He, however, submits that in view of the serious allegations against the petitioner, petitioner 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 10.10.2024. 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 01.05.2025 and out of a total of 23 prosecution witnesses, only 01 witness i.e. prosecutrix has been examined till date. 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.*

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.
- (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

05.08.2025

Kavita

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