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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-25847-2025
Decided on: 16.05.2025

Parmesh Saini

. . . Petitioner

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. D.S. Matya, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG Haryana

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.285 dated 16.11.2022, registered under Sections 363, 366 IPC and Section 6 of POCSO Act (alternatively charge-sheeted under Sections 376(3) and 376(2)(n) IPC) at Police Station New Colony, Gurugram.

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

“To, The Incharge, Chowki Arjun Nagar, Gurugram. Sir, it is, requested that I am Raviul Hussain, son of Nizamudin Sarkar, resident of village Gajoul, Durgapur, Police Station Gazoul, District Malda, West Bengal, currently residing in a rented accommodation at House No. 712/6, near Kali Mata Mandir, New Basti, Gurugram. That my marriage was got solemnized with Sarfa Bibi daughter of Shayokat resident of Seyatpur, Police Station Harirampur, District



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Dakshin Dinashpur, West Bengal, currently residing in a rented accommodation at Hans Colony, Palamvihar, Gurugram on 5th March of 2022. That my wife Sarifa Bibi and my mother Luthwa widow of Late Nizamuddin Sarkar, used to do domestic works in the houses at Jaikampura: That on dated 15.11.2022, at about 06:30 AM in the morning time, my mother Luthwa widow departed from home for doing work and lateron my wife Sarifa Bibi aged about 19 years went to Jaikampura from home for doing work, my mother and my wife used to work jointly in a Kothi at Jaikampura and my mother have placed a telephonic call at my mobile and stated that even uptil now, Sarifa Bibi haven't reached here for work and I have instantly informed my father-in-law Shayokat about this on phone and that my father-in-law Shayokat and I have searched for the whereabouts of my wife at the nearby places and in the relative circle, but my could not be traced, my wife have gone to some place from home without any information. The whereabouts of my wife be traced. The appearance of my wife is as follows: wheatish complexion, round face, athletic built and height is about 5 feet, aged 19 years old, mehroon ladies suit and with pink dupatta. The whereabouts of my be traced. Sd/- Rabiul Hossain, applicant Rabiul Hossain, son of 8130127535. Nizamudin Sarkar. M.No. 8130127535.”

3. Learned counsel for the petitioner submits that the present FIR was lodged on the statement of the husband of the victim, a perusal of which shows that the petitioner was not even named as an accused in the same. Further, even in the statement of the victim recorded under Section 164 Cr.P.C., she stated that she had left the home on her own free will and that she wanted action to be taken against her husband. Even as per the MLR of the victim, no injury marks were found on her person. The victim also turned hostile during the course of trial. Further, learned counsel submits that the petitioner has undergone an actual custody of 02 years, 05 months and 27 days and there is no other case pending against him.



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4. Per contra, learned State counsel on instructions submits that charges were framed on 09.03.2023 and out of a total of 24 prosecution witnesses, 05 have been examined. He further submits that petitioner has undergone an actual custody of 02 years, 05 months and 27 days and there is no other case pending against him. However, in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner has undergone an actual custody of 02 years, 05 months and 27 days and there is no other case pending against him. Even the trial of the case has not made much progress as out of 24 prosecution witnesses only 05 have been examined so far. 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.**

6. 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



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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 him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

7. 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.

8. 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.

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

(KIRTI SINGH)
JUDGE

16.05.2025

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