



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

CRM-M-4033-2025 (O&M)

Date of Decision:-21.05.2025

Gurwinder Singh @ Jassi @ Jaswinder Singh @ Chruli

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Ms. Riffi Birla, Advocate for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, Sr. DAG, Punjab.

JASGURPREET SINGH PURI J.(Oral)

1. The present is a second petition filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.101 dated 26.07.2023 under Sections 363 and 366-A of IPC (Offences under Section 376 of IPC and Section 6 of POCSO Act added later on) registered at Police Station, Sadar Jalalabad, District Fazilka.

2. On 29.01.2025, the complainant, who is the father of the prosecutrix was impleaded as respondent No.2 and notice was ordered to be issued to respondent No.2. As per the report of the Registry, notice issued to respondent No.2 was received back duly served through his wife, but nobody has appeared on behalf of respondent No.2.

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner has been in custody since 30.07.2023 which is 01 year, 09 months 19 days and the material witnesses have been examined including the



complainant and the prosecutrix. She further submitted that it is a case where even as per the FIR, the daughter of the complainant, who was of the age of 16 and 1/2 years, had gone along with the present petitioner and was seen sitting on a motorcycle with the petitioner, which was so found in the CCTV camera and this fact has also been incorporated in the FIR itself, wherein the complainant, who is the father of the prosecutrix, so stated that after looking at the CCTV footage, it was found that she was sitting along with the present petitioner, who was employed as a driver of the van in which the prosecutrix used to go to school. Learned counsel further submitted that there was a consensual relationship between the prosecutrix and the petitioner, despite the prosecutrix being 16 and 1/2 years old and the same is evident from the bare perusal of the FIR, by which it can be seen that, as per the complainant, the alleged occurrence took place on 17.07.2023 at about 7:15 A.M. and it is so stated by the complainant himself that on the very next date, i.e. 18.07.2023, when the CCTV camera was checked, it was found that the prosecutrix was sitting on the motorcycle along with the present petitioner, but the FIR was lodged on 26.07.2023, which was after a delay of about 08 days. She submitted that no justification has come forth as to why, once it was detected by the complainant that his daughter was going along with the petitioner on the motorcycle, the FIR was still lodged after a delay of 08 days. She also submitted that the FIR was lodged for the purpose of putting pressure upon the petitioner. She further asserted that be that as it may the petitioner has already suffered incarceration for 01 year, 09 months, and 19 days, and the prosecutrix has already been examined, and as such, the petitioner may be considered for grant of regular bail.



4. On the other hand, learned State counsel submitted that, insofar as the custody of the petitioner is concerned, the same is correct and 05 prosecution witnesses including the complainant and prosecutrix have been examined. He, however, submitted that the allegations against the petitioner are serious in nature and therefore the petitioner is not entitled for grant of regular bail.

5. I have heard the learned counsels for the parties.

6. It is a case where the petitioner has suffered incarceration for 01 year, 09 months and 19 days and as per both the learned counsels for the parties, 05 prosecution witnesses including the prosecutrix and the complainant, have already been examined. The alleged occurrence took place on 17.07.2023 and as per the FIR, the complainant saw the CCTV footage on the very next date of the incident i.e.18.07.2023 and thereafter after a period of 08 days, the FIR was registered. The prosecutrix was stated to be of the age of 16 and 1/2 years at the time of incident and as per the allegations, she was found sitting on the motorcycle along with the present petitioner. The material witnesses have already been examined and the petitioner has suffered incarceration for 01 year, 09 months and 19 days. Furthermore, it is neither the case of the learned State counsel nor has it been argued that if the petitioner is released on bail, he may abscond, flee from justice, influence witnesses or tamper with evidence. In view of the aforesaid totality of the circumstances, this Court is of the view that the present petition deserves the concession of regular bail.

7. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to



furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

21.05.2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No