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

Sr. No.225

CRM-M-40455-2025 (O&M)

Date of decision : 4.8.2025

Suraj

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate, for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) has been invoked for grant of regular bail to the petitioner in case FIR No.46 dated 24.03.2024 under Sections 363 & 366-A IPC and Sections 4 and 17 of POCSO Act, registered at Police Station Kanina (SDR) District Mohindergarh.

2. The translated version of the FIR is reproduced below:-

“I, Dayanand S/O Prabhati Lal, resident of Village Baghot, humbly submit that my daughter has been missing from home since the night of 23/03/2024 at around 1:00 AM. Her age is 17 years and 9 months, fair complexion, height 5 feet 3 inches, round face. We suspect our neighbor Suraj S/O Rajesh, who is serving in the Army and posted in Mathura, and had recently come to his native place (Huda). The boy's family stated that he had left for his duty a day earlier, but we strongly suspect that he, having enticed and misled our minor daughter, has taken her away. The mobile numbers of the boy are 8295999823 and 8168745611. We request you kindly to recover

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my daughter from this boy and his friend Mohit S/O Kailash, resident of Baghot, whose mobile number is 8780133696, as he may also be involved in this conspiracy. Kindly rescue my daughter from their clutches, Sd/-.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case on the statement of the father of the prosecutrix. It is submitted that the petitioner and the prosecutrix were infact admittedly known to each other and shared a friendly equation. Further, there is no medical evidence on record to substantiate the allegations leveled against the petitioner, and even a perusal of the MLR of the prosecutrix does not reveal any injury on her person. He further submits that the material witnesses stand examined. The petitioner is a young man of 25 years and has already undergone an actual custody of 01 year, 03 months and 20 days.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He 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 01 year, 03 months and 20 days. He on instructions from the concerned investigating officer submits that charges were framed on 17.7.2024 and out of a total of 25 prosecution witnesses, 13 have been examined till date. He submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

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6. On a perusal of the case in hand, it transpires that the petitioner is behind the bar since 12.4.2024. 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 out of 25 prosecution witnesses, only 13, including material witnesses, have been examined so far. 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. 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(s) will not tamper with the evidence during the trial.
- (II) The petitioner(s) will not pressurize/intimidate the prosecution witness(s).
- (III) The petitioner(s) will appear before the trial Court on the date fixed, unless personal presence is exempted.

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(IV) The petitioner(s) 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(s) 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.

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.

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

(KIRTI SINGH)
JUDGE

4.8.2025

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No