



CRM-M-17244-2025(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-17244-2025(O&M)
Decided on: 03.04.2025

Saurabh

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Suraj Mandhan, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

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.774 dated 07.12.2023, under Section 365 IPC (lateron challan was presented under Sections 363, 366-A and 376 of IPC and Section 6 of POCSO Act), registered at Police Station Gharaunda, District Karnal.

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

“Copy of complaint- To the SHO Police Station Gharaunda - Sir, It is requested that I am Kavita wife of Sh. Inderdev resident of Village Bhagro, District Bhagalpur, Bihar at present resident of village Taharpur, P.S. Gharaunda, District Karnal. I have 3 daughters and 3 sons. On 06.12.2023 at about 7 A.M. My daughter Sonali aged about 13 years is missing from the home without disclosing her whereabouts to any person and has not returned back and that I searched for my daughter in nearby relationships then we came to know that my daughter has been abducted by Sourabh resident of Tarapur. Then I went to his home and enquired about Sourabh where Gourav brother of Sourabh threatened that Sonali went with his brother and they will come back after performing

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marriage and that if Sonali did not perform the marriage then they will kill Sonali. I request you sir to register a missing report of my daughter Sonali and take strict legal action against Saurabh and help me in getting my daughter released from his clutches. Appearance Height 5 feet 3 inches dark complexion Wearing yellow pork suit pyjama and blue slippers on feet RTI Kavita wife of Indra Dev Resident of Village Bhagro District Bhagalpur Bihar Currently tenant Village Tarapur Police Station Gharaunda District Karnal Mobile No.-90340-37180.”

3. Learned counsel appearing for the petitioner submits that petitioner has been falsely implicated in the case on the statement of the father of the prosecutrix. He submits that marriage was solemnized between the petitioner and the prosecutrix on 19.12.2023. The prosecutrix did not level any allegations against the petitioner in her statement made under Section 164 Cr.P.C., (Annexure P-3). It is further submitted that even in her statement made before the learned Trial Court on 06.02.2025, the prosecutrix has turned hostile. The petitioner has clean antecedents and has undergone an actual custody of 01 year, 02 months and 01 day.

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 and reply in Court today and the same are taken on record. As per custody certificate, the petitioner has undergone actual custody of 01 year, 02 months and 01 day. He on instructions from investigating officer submits that charges were framed on 11.09.2024 and out of total of 16 prosecution witnesses; 01 has been examined till date. He, however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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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 31.01.2024 and has no other case registered against him. 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 11.09.2024 and out of total of 16 prosecution witnesses, only 01 has been examined. The victim has turned hostile. 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

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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

03.04.2025

Kapil

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