



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

Sr. No.209

CRA-S-4271-2024(O&M)

Date of decision : 28.05.2025

KAPIL

..... Appellant

VERSUS

STATE OF HARYANA AND ANR

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Rajesh Lamba, Advocate and
Mr. Abhinav Kaushik, Advocate for the appellant.

Ms. Mahima Yashpal, DAG, Haryana.

Mr. Sanyam Khetarpal, Advocate for respondent No.2.

KIRTI SINGH, J. (Oral)

The present appeal has been filed for grant of regular bail to the appellant, by way of challenging the impugned order dated 15.10.2024 passed by learned Additional Sessions Judge-cum-Fast Track Special Court, Faridabad vide which the bail application in FIR No.01 dated 01.01.2024 under Sections 376(2)(n), 377 and 506 of IPC; Sections 6 & 12 of POCSO Act, 2012 and under Section 3(w)(i) of SC/ST Act registered at Police Station Women N.I.T., Faridabad was dismissed.

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

“To Women Incharge, Women Police Station N.I.T., Faridabad. Sir, the request is that I am xxxx W/O Raju resident of Near Sarvottam Enclave Nangla Part 2 NIT Faridabad. I belong to the scheduled caste Chamar. I have four children, of which 3 are girls and 1 boy. xxxx is 14 years old and studies in class 7 in the government school at Saran. Kapil Bhadana lives in front of our house. He has been harassing my daughter xxxx for the last one year. I came to know that Kapil talks to my daughter xxxx, so I threatened my daughter, then my daughter told me that "mummy, if I don't talk to him, then he has a gun and he will kill mummy and papa". He threatens in this manner and also gives



money. When I told this to Kapil's mother and his brothers, they started threatening me instead and his mother said, "Take care of your daughter. If you or your daughter tell this to anyone, then it will not be good for you." His brother (Omdev, Ravinder, (Rabbo), Rohit said that if you complain to the police station, they will kill my entire family and will not let you us live there. I did not complain because of fear. On 31/12/2023, at around 2 AM in the night, I woke up and I could not see xxxx among all the children so I looked in the other room and the latch was closed from inside. I peeped through the window and saw Kapil Bhadana and xxxx were in the same room. Kapil was on top of my daughter and was doing wrong things. Seeing this, I screamed. Then Kapil, upon hearing my scream, pulled up his pants and opened the latch and started running. When I tried to catch him, he jerked my hand and ran upwards. Hearing my scream, my husband and mother-in-law also came out of the room. And the mother-in-law said that it is getting late now and we will complain against Kapil in the police station in the morning. When I asked my daughter, she said that he does wrong things with me by intimidating me and threatens that if you complain to mother-father or the police, I will kill your mother-father and brother, everyone. On hearing Kapil's name, my younger daughter (Kinjal) said that mummy, whenever I go to drop xxxx with her, Kapil follows me and I have seen him standing in front of the tuition. Then my younger son Kanishka told that when I go to drop Didi, sometimes he gives me 20 or 50 rupees and says that you go home, I will drop xxxx and if you go home and say anything, I will beat you up badly. Kapil Bhadana's mother and his brothers also have a hand in promoting him. If they had paid attention to my first point, Kapil would not have reached to this level today. These people are goons, they keep fighting in the streets and neighbourhoods after getting intoxicated and they can do anything to me and my family anytime. I and my husband and my mother-in-law are on duty and all my children are in school. These people can cause harm to my children at our back any time, keeping all these things in mind, I am filing this complaint with great courage. I hope the police will help me in getting justice. Hence, I request to sir that appropriate legal action should be taken on my complaint and the my life and property and of my family should be protected."

3. Learned counsel for the appellant submits, inter alia, that the appellant is a young boy aged 20 years and has been falsely implicated in the present case on the statement of the mother of the prosecutrix. It is further submitted that the MLR (Annexure P-2) does not indicate any injury on the person of the prosecutrix. Moreover, it is contended that the appellant and the prosecutrix were well known to each other, which is evident from her statement recorded under Section 164 Cr.P.C. as well as her deposition before the learned trial Court. The appellant has undergone an actual custody



of 01 year, 04 months and 25 days and there is no other case registered against him.

4. *Per contra*, learned counsel for complainant as well as learned State counsel has vehemently opposed the submissions made by the learned counsel for the appellant. Learned State counsel has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the appellant has undergone actual custody of 01 year, 04 months and 25 days and there is no other case pending against him. She on instructions, submits that charges were framed on 15.07.2024 and out of total 26 prosecution witnesses, only one witness i.e. victim has been examined. She however, submits that in view of the serious allegations against the appellant, he is not entitled to the concession of regular bail.

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

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the appellant is behind the bars since 03.01.2024. 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 26 prosecution witnesses cited, only one witness i.e. victim stand examined so far. Therefore, the trial in the present case will not conclude anytime soon. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/appellant. Keeping the appellant 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 appeal is allowed and the appellant 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 appellant shall also abide by the following conditions:-

- (I) The appellant will not tamper with the evidence during the trial.
- (II) The appellant will not pressurize/intimidate the prosecution witness(s).
- (III) The appellant will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (IV) The appellant 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 appellant 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.

(KIRTI SINGH)
JUDGE

28.05.2025

Kavita

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No