



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

219

**CRA-S-1456-2025(O&M)
Decided on : 05.05.2025**

ASHISH ALIAS ASHU

. . . Appellant(s)

Versus

STATE OF HARYANA AND ANOTHER

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Samay Singh Sandhawalia, Advocate
for the appellant(s).

Mr. Anmol Malik, DAG, Haryana.

Mr. Sumit Chahal, Advocate for complainant.

KIRTI SINGH, J. (Oral)

The present appeal has been filed for grant of regular bail to the appellant, by way of appeal against the impugned order dated 04.04.2025 passed by learned Additional Sessions Judge, Kaithal vide which the regular bail application in FIR No.125 dated 01.05.2024 under Sections 363, 366A, 376(2)(n), 376(3) and 506 IPC; Sections 4(2) and 6 of POCSO Act and Section 3(2)(v) of SCST Act registered at Police Station Kalayat, District Kaithal was dismissed.

2. Brief facts of the present case are that on 01.05.2024, the complainant 'B', son of 'KS', resident of [XXXX], reported at the Police Station that his 15-year-old daughter 'H', a student of Class 10 at Government School, had gone to school but did not return home. He further stated that he found a suspicious mobile number in the house and suspected that Ashish, resident of Pinjupura, had enticed away his minor daughter with the intention to marry her. Based on his complaint, an FIR was registered.



3. Learned counsel for the appellant, *inter alia*, submits that the appellant, a young man of 19 years, has been falsely implicated in the present case on the statement of the father of the prosecutrix; alleging that the appellant had enticed her daughter on the false pretext of marriage. It is submitted that the appellant and the victim were in a consensual relationship, having studied together in the same school, which was opposed by the parents of the prosecutrix, who allegedly threatened to kill both the appellant and the victim. Out of fear, the appellant and the prosecutrix had run away together. It is also submitted that there were no allegations of rape made by the victim in her initial statement recorded under Section 164 Cr.P.C. The material witness i.e. prosecutrix has been examined. The appellant has undergone an actual custody of 11 months and 21 days. He has clean antecedents and no other criminal case is registered against him.

4. Per contra, learned counsel for complainant and learned State counsel have 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 an actual custody of 11 months and 21 days and there is no other case registered against him. He on instructions submits that charges were framed on 23.07.2024 and out of a total of 31 prosecution witnesses, two have been examined till date. He 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 has undergone a period of 11 months and 21 days and is not involved in any other criminal case. Investigation is complete. The material witness i.e. prosecutrix has been examined. The final report under Section 173 Cr.P.C. has been presented before the concerned Court and trial of the case has not made much progress as out of a total of 31 prosecution witnesses, two have been examined till date.. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the 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.



CRA-S-1456-2025(O&M)

- 4 -

(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 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.

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

(KIRTI SINGH)
JUDGE

05.05.2025

Kavita Nain

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