



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

224

CRM-M-2591-2025(O&M)
Decided on : 23.01.2025

RAJPAL ALIAS RAJ PAL

. . . Petitioner(s)

Versus

STATE OF PUNJAB

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Sumeet Singh Brar, Advocate and
Mr. Charnjit Singh, Advocate for the
petitioner(s).

Mr. R.S.Thind, DAG Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.13 dated 02.03.2024 under Sections 363, 366-A and 376 of IPC and Section 6 of POCSO Act, registered at Police Station Khuhi Khera, District Fazilka.

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

“Statement of Prem Kumar, son of Hardiari Lal son of Dhuni Chand resident of Khuhi Khera are about 49 years mobile number 6239154473 that I am resident of above address and chowkidar of village Khuhi Kheda. I have one son and daughter. The name of my elder daughter is Sarala Devi age about 16 years and son, namely Pankaj age about 14 years. On 29.2.2024, I along with my wife, namely Sunita Devi, son, Pankaj, and daughter, namely Sarla Devi went to sleep at about 9 PM after taking meal in our respective beds when I woke up at five on 01.03.2024, then, I found that my daughter namely Sarla Devi is not present on his bed. I told about this to my wife and son and we all family tried to know her bear about, but my daughter could not be found. Then I talk to my nephew, namely Vikram Kumar, son of Ram karan,



resident of Khuhi Keda, till today we were searching my daughter Sarla Devi in neighborhood and relatives. But I could not find my daughter now. I have full faith that one boy of our village namely Rajpal son of Baldev Ram resident of Kheda has ran away with my daughter by giving her promise of marriage. I and my nephew has come to you for taking action. So action be taken against Rajpal Saab Balwan Ram, and my daughter may be found. I have recorded my statement. It is heard it is correct signed Prem Kumar above witness by Vikram Kumar son Ram karan in Hindi, Mobile 9780 4896 110 attested by Miraj SI police station, Gori Kheda on 02.03.2024.”

3. Learned counsel for the petitioner, inter alia, submits that the petitioner has been falsely implicated in the present case. It is further submitted that the material witnesses, PW-1 and PW-2, have not supported the case, and both the complainant and the prosecutrix have turned hostile. He further submits that the petitioner has undergone an actual custody of 10 months and 18 days and is not involved in any other criminal case.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. 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 10 months and 18 days and he is not involved in any other criminal case. He on instructions from the concerned investigating officer submits that charges were framed on 03.06.2024 and out of a total of 15 prosecution witnesses, only 03 have been examined till date.

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

6. Admittedly, investigation of this case is complete and charges were framed on 03.06.2024 and out of a total of 15 prosecution witnesses,



only 03 have been examined till date. The material witnesses, PW-1 and PW-2, have not supported the case, and both complainant and prosecutrix have turned hostile. The petitioner has undergone an actual custody of 10 months and 18 days and there is no other criminal case registered against him. The conclusion of trial will take a considerable period and further detention of the petitioner will not serve any useful purpose and will be violation of 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. Therefore, this Court is of the considered view that further incarceration of the petitioner will not serve any purpose.

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 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 he 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 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

23.01.2025

Kavita

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