



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

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**CRM-M-17669-2025(O&M)
Decided on : 28.05.2025**

SALMAN

. . . Petitioner(s)

Versus

STATE OF HARYANA & ANR.

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. R.K.Choudhary, Advocate
for the petitioner(s).

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.282 dated 24.09.2024 under Sections 123, 140(3), 3(5), 351(2), 64, 340, 337 of BNS and Section 6 of POCSO Act, registered at Police Station Hathin, District Palwal.

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

“To Mr. SHO Sahib, Police Station Hathin, Subject Application regarding use of force in forceful kidnapping. Sir, the request is that I am the applicant complainant Dinesh son of Shri Premchand resident of Ward No. 8 of Hathin, my daughter xxx is a student of 12th (10+2) who studies in Girls Senior Secondary School Hathin and also learns COMPUTER at FUTURE COMPUTER CENTER, yesterday on 22/09/2024 at about 9.15 am, when she left her house to take computer class, near the girls senior secondary school where there was an empty space, the accused Sahil, son of Shoyeb, resident of Lakhnava and Salman father's name not known, resident of Lakhanab, came in their Temp. No. white colored Swift car whose rear four digits are 0909, and forcibly kidnapped my daughter Neha by showing her weapons and putting her in the car and took her away and did forceful act with her, then Jatin son Naresh Sharma saw the accused there and raised an alarm, then the accused fled with their car and Jatin chased her for some distance but they managed to escape from there. After this Jatin came home and informed me that my daughter has been kidnapped. When my daughter came home she was very confused and nervous. After calming down for a while she told that the accused



have raped me. and they forcefully made my daughter drink some intoxicating substance mixed in water. After that they threw me out of the car on the Janyati Mood and while leaving they told me that if I tell anyone about this incident then they will kill me. Therefore it is requested to you that strict action should be taken against the said accused.”

3. Learned counsel for the petitioner submits that the petitioner is a young boy aged 20 years and has been falsely implicated in the present case on the statement of the father of the prosecutrix. Even in her statement recorded before the learned trial Court, it has been stated that it was the co-accused who committed rape upon her, and no such allegations have been levelled against the present petitioner. As per her MLR, no injuries were found on the person of the prosecutrix. He further submits that the petitioner has undergone an actual custody of 07 months and 06 days and there is no other case registered against him.

4. Learned State counsel has opposed the present petition, arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate in Court, which is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 07 months and 06 days and there is no other case registered against him. He on instructions submits that charges were framed on 09.01.2025 and out of a total of 23 prosecution witnesses, only two witnesses, one of whom is the victim, have been examined till date.

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 petitioner is behind the bars since 26.09.2024. The material witnesses, including the victim, have been



examined. 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 two 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/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 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.



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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

28.05.2025

Kavita

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No