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

Sr. No.213

**CRM-M-63726-2024 (O&M)
Date of decision : 06.05.2025**

Sahil Khan

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Balraj Gujjar, Advocate, for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

Mr. Ritesh Tomar, Advocate, for the complainant.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.80 dated 04.09.2024 (wrongly recorded as on 05.09.2024 in the bail dismissal order of the learned trial Court), under Sections 232 (1) of BNS, 2023 and Section 12 of POCSO Act, registered at Police Station Women Central, Faridabad, District Faridabad (Haryana).

2. The contents of the FIR is reproduced below:-

“Stated that I am permanent resident of above said address and we are one sister and brother and I am taking coaching from Vidhya Mandir, sector-16, Faridabad. That Sahil Khan on 25/26-8-2024 made message and call to me on Instagram and sent wrong message and used abusive language and threatened me that you got registered FIR No.69/2023 at P.S. Women Police Station, Central Faridabad and in case you do not close the case then I will kill and your family members. That Instagram id of Sahil is _sahilishotasf and my Instagram id is WOPWOP_66. That legal action be taken against Sahil

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Khan. I making my statement with my consent before the legal advisor in the presence of my mother. Statement got recorded, read, which is correct. This statement recorded in my presence. Sd/ H Singh. Hem Lata Singh, LAC Sd/-Anandita. Sd/- Sushila, WPS Centre dated 04.09.2024.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present FIR, which was lodged after a delay of nine days, on the statement of the prosecutrix. It is submitted that previously, another FIR No.69 dated 13.06.2023 was also lodged on the false allegations leveled against the petitioner, in which he has been granted the concession of regular bail by this Court in CRM-M-12422-2024 vide order dated 31.07.2024. It is submitted that in the said FIR No.69, when the prosecutrix had already been examined, there was no occasion for the petitioner to threaten her as has been alleged. Moreover, the petitioner has already undergone an actual custody of 08 months and 01 day.

4. *Per contra*, learned State counsel and counsel for the complainant has vehemently opposed the submissions made by the learned counsel for the petitioner. Learned State counsel states that the petitioner was actively involved in the commission of the offence. 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 08 months and 01 days and there is another case registered against him, but he is on bail in that case. He on instructions from the concerned investigating officer submits that charges has been framed on 10.01.2025 and out of a total of 16 prosecution witnesses, 01 witness has been examined till date.

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5. Learned counsel for the complainant submits that previously also, an FIR No.69 dated 13.06.2023, under Section 6 of POCSO Act and 506 IPC has been registered at Police Station Women Central Faridabad, Faridabad against the petitioner by the prosecutrix, to withdraw which the petitioner sent threatening messages to the prosecutrix. He submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

7. On a perusal of the case in hand, it transpires that the petitioner is behind the bar since 05.09.2024. 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 out of 16 prosecution witnesses, only 01 witness has been examined so far. The prosecutrix has been examined. The petitioner has undergone an actual custody of 08 months and 01 day and there is another case registered against him, but he is on bail in that case. 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.

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8. 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 him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

9. 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.

10. 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.

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

(KIRTI SINGH)
JUDGE

06.05.2025

Ramandeep Singh

Whether speaking / reasoned

Yes/No

Whether Reportable

Yes/No