

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Bail App. No. 147/2024
CrlM No. 1053/2024
c/w
Bail App. No. 41/2025
CrlM No. 267/2025**

**Vansh Bhatti, age 21 years,
S/o Late Bhaggu Bhatti,
Th. mother Rajji, age 44 years,
W/o Late Bhaggu Bhatti
Both residents of 3473/14,
Gali No. 11, Dhapai Road,
Amritsar**

.....Appellant(s)/Petitioner(s)

Through: Mr. Ayushman Kotwal, Advocate
in Bail App. No. 147/2024

Ms. Mehrukh Syedan, Advocate
in Bail App. No. 41/2025
(Through Virtual Mode)

Vs

- 1. UT of Jammu and Kashmir,
Th. SHO Police Station, Bakshi Nagar,
Jammu.**
- 2. Victim "K",
D/o Late Tony Masih,
R/o Resham Ghar, Colony, Jammu**

..... Respondent(s)

Through: Mr. Rozina Afzal, Advocate

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
ORDER
(13.05.2025)**

- 01.** A case of missing thirteen years old girl led to registration of FIR No. 0211/2022 dated 22.12.2022 with the Police Station, Bakshi Nagar, Jammu by her worried mother, namely, Suman, stating therein that her daughter, as

named in the FIR aged thirteen years, has gone missing from the home from 7 p.m. on 20.12.2022 only to find her coming back to home on the next day on 21.12.2022 at 7 a.m. to be told by her that one Vansh Bhatti along with two other persons had taken her away from Reshamgarh Park to unknown places thus, alleging commission of offence under section 363 IPC and registration of FIR for the said offence. In the said FIR, names of the accused persons were left unmentioned by reference to be Unknown.

- 02.** The investigation of the case came to be taken up by the Police Station, Bakshi Nagar, Jammu assigned to Sub-Inspector-Ishtyaq Mohammad, and resulted in presentation of a final police report/challan No. 07/2023 dated 22.02.2023 thereby booking three persons, namely, Vansh Bhatti, as accused No. 1, Sachin Masih, as accused No. 2 and Satifan, accused No. 3, all arrested for alleged commission of offences under sections **363/109/376-D of Indian Penal Code read with sections 5/6/17 of the Protection of Children from Sexual Offences Act, 2012 (in short, 'POCSO Act')** which led to the commencement of criminal trial against the said three accused persons before the court of learned Special Judge, Fast Track Court, (POCSO

CASES), Jammu on its file/challan No. 08 of 2023 date of institution 23.02.2023.

- 03.** In the final police report, the investigating officer came to enlist (23) twenty three prosecution witnesses which includes the first informant Mst. Suman, the mother of the minor crime victim and also the victim herself.
- 04.** The investigating officer came up with the factual version of the case that the minor victim was abducted from Reshamgarh, Colony near Park by three accused persons by use of a vehicle bearing registration No. HR26BM-4416 (Toyota Innova) and upon her abduction by the said three accused persons she is said to have been sedated by an oral administration of a pill and then taken to Gajansoo Marh at a place known as Manohar Palace whereat the minor girl remained under the alleged capture of the three accused persons and allegedly subjected to rape/penetrative sexual assault. The date of birth of the minor victim girl from her school record is 07.09.2010.
- 05.** During the trial of the case, all the three accused persons, being in under-trial custody, came to apply at different points of time at their individual level for bail.
- 06.** The trial court, vide its order dated 02.07.2024, came to grant bail in favour of the accused No. 3-Satifan dealing

with his bail application on the merits of the case and the prosecution evidence which by the time of consideration of bail application had come on record.

- 07.** In so far as the bail applications filed by the accused No. 1-Vansh Bhatti and accused No. 2-Sachin Masih are concerned, both the applications came to be dismissed by long-drawn reasoned orders dated 02.07.2024 and 22.11.2024 respectively.
- 08.** Both the accused persons came forward with their respective bail petitions preferred before this court after having suffered rejection of bail application from the court below.
- 09.** The petitioner-Vansh Bhatti, as accused No. 1, came with bail petition bearing No. 147/2024 filed on 09.07.2024 whereas petitioner-Sachin Masih, accused No. 2, came forward with the bail petition bearing No. 41/2025 filed on 10.02.2025.
- 10.** In both the petitions, the two accused persons have come forward with their respective versions to claim that evidence which so far has come on record and in particular, the medical evidence, which has come on record with examination of Dr. Rajni Gupta, prosecution witness No. 15's, medical opinion confirm that there was no recent evidence of sexual intercourse on the date of

medical examination of the minor victim which took place on 22.12.2022.

11. By making a heavy exploit of the medical opinion which has come on the record, both petitioners as accused persons in their petitions are pleading that their continuing detention as an under-trial is antithesis to a fair criminal trial and law of bail.
12. Before this court proceeds to adjudicate present two bail petitions, it needs to be taken into consideration the dates of passing of orders whereby the trial court came to reject the respective bail applications of the two petitioners.
13. Bail petition filed by the petitioner-Vansh Bhatti before the trial court came to be dismissed on 02.07.2024 whereas the bail petition of the petitioner-Sachin Masih came to be dismissed on 22.11.2024.
14. By the time, the two petitioners came up with the present bail petitions before this court, no sufficient time interval had come to take place for them to expect that what they failed to earn from the trial court on the basis of the merits of the case would come rushing to them by institution of the bail petitions before the High Court of J&K and Ladakh.

- 15.** If this court undertakes to deal with the main plank of the petitioners' bail pleas that medical examination exonerates them from the accusation of having committed rape of the minor victim then any observation in negating the said plea of the petitioners may hurt and haunt them in terms of their trial having a serious bearing on the final outcome and this is where this court would act and stay on the side of the caution and refrain from undertaking evaluation of the medical report and the testimony which has come in the case.
- 16.** This court cannot lose sight of the fact that the alleged commission of offences on the part of the accused persons is against thirteen years aged minor girl. Now, whether the offence under section 376-D IPC, is made out or not may not have much significance at this stage of the case bearing in mind the fact that the accusation of commission of offence under section 363 IPC which entails punishment for a term which may extend to seven years and for offences under sections 5 and 6 of POCSO Act, 2012 which entail punishment for a term not less than 20 years are also in play and therefore, just by mere exploit of the fact that the medical evidence/opinion on record is purportedly ruling out recent sexual intercourse upon the victim-minor girl may not be a weighty reason

in itself available at the end of the petitioners to claim that they deserve grant of bail in their favour.

17. This court is being apprised that prime prosecution witnesses have come to be examined in the case and only the formal witnesses are awaited to be examined and that should also be considered in the matter of grant of bail to the petitioners so as to save them from suffering persecution during the remainder course of the criminal trial.
18. This plea of the petitioners can be taken care of not by considering their plea for grant of bail but by calling upon the court below to ensure prompt examination of the remaining prosecution witnesses by undertaking their summoning from its own end rather than leaving it for the Prosecution to come up with production of prosecution witnesses at a snail pace at its own leisure, therefore, the two bail petitions are hereby **dismissed** with a direction to the trial court to ensure that there takes place speedy trial of the accused persons by examination of remaining of the prosecution witnesses by dispensing wasteful adjournments and summoning the remaining prosecution witnesses by its own processes.

- 19.** Copy of this order be sent to learned Special Judge, Fast Track Court, (POCSO CASES), Jammu through Registrar Judicial, Jammu for its notice and compliance.

**(RAHUL BHARTI)
JUDGE**

**JAMMU
13.05.2025
SUNIL**

