

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

2025:PHHC:018725



222

CRM-M-205-2025

Date of decision: 07.02.2025

Sunder Singh

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Pallavi Babbar, Advocate for the petitioner.

Mr. Naveen S. Bhardwaj, Addl. AG, Haryana.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.650 dated 05.11.2022 registered for the offences punishable under Section 10 of POCSO Act, 2012 and Section 506 IPC at Police Station Palla, District Faridabad.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“To SHO Palla Police Station Faridabad. It is requested that Rajesh Kumar Pandey, son of Shri Gangaram Pandey, resident of Pura Awadh Ram Mauja Bhareya Post Deorha District Amethi UP now Tenant, of house No. 101 Sarpanch Colony Near Old Tarun Public School, Faridabad. I have 5 girls. This is Jyoti Pandey, daughter of my third number aged about 11 years Yesterday, dated 04.11.2022 at around 03.00 pm my daughter had gone to Sunder Singh's shop in our neighborhood to bring thread. My daughter Jyoti came from where crying when my wife and I lovingly asked my daughter Jyoti, she told me that when she went to uncle's shop to bring the thread, the Sunder uncle called from upstairs to come to the shop and take the thread. When I grew up, uncle told me that give me kiss on my cheek. When I refused uncle, he forcefully caught hold of me and kissed my cheek. There was no one there. I pushed uncle and I started running. Then uncle said, stop otherwise I will kill you. I did not stop and came home. Sunder Singh has done a very disgusting thing by doing this to my daughter Jyoti. I did not lodge a complaint in the police station yesterday due to fear of the society. Today I have given you a written complaint on which the strictest possible action will be taken against Sunder Singh. Legal action should be taken Rajesh Kumar Pandey RAJESH DT-05.11.2022 SD- PSI MAMTA PS PALLA FBD Today: Police Station- After receiving the complaint and on the strength of the above, the case is a serious crime and section 506 IPC and 10 POCSO ACT was found, case no.650 dated 05.11.2022 under Section 506 IPC 10 of POCSO ACT Police Station Palla FIR was registered and a copy of the FIR was prepared by computer, which is a special report. The copy is being sent to the area magistrate through Special Dist 3976 and in the service of the concerned officer. Police, after taking

the original application, is sending it to I, PSI I take the complaint with us and leave for the spot and this case has been registered in the presence of PSI MAMTA.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 07.11.2022. Learned counsel for the petitioner further iterated that the petitioner has been falsely implicated into the FIR in question as there was a money dispute between the petitioner and father of victim. Learned counsel for the petitioner has further submitted that the statement of the prime prosecution witness namely the victim stands recorded and, thus, there is no likelihood that the petitioner would be in a position to influence the substantive prosecution witnesses. Learned counsel for the petitioner; while referring to the order dated 26.02.2024, 05.04.2024 as also 16.05.2024 passed by the learned trial Court; has urged that the trial is proceeding at a snail's pace and fault thereof cannot be attributed to the petitioner. Learned counsel for the petitioner has further argued that there are material discrepancies in the testimony of the victim. On the strength of the submissions, learned counsel for the petitioner has pressed for grant of regular bail to the petitioner.

4. Counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 07.11.2022 & thereafter investigation was carried out and challan was presented on 26.11.2022

wherein total 13 witnesses have been cited, out of which 2 only have been examined. It is not disputed that the prime prosecution witness namely the victim already stands examined as PW-1. The rival contentions of the learned counsel for the parties; as to the whether the appellant has been falsely implicated into the FIR in question as also the material discrepancies (if any) in the testimony of the prime prosecution witness namely the victim shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage lest it may prejudice the rights of either of the parties. Nothing tangible has been brought forward to indicate the likelihood of the appellant absconding from the process of justice or interfering with the remaining prosecution evidence.

Inevitably, the petition in hand preferred on behalf of the petitioner for grant of regular bail is the second one. The first petition preferred on behalf of the petitioner came to be withdrawn on 09.04.2024, as the victim was yet to be examined as a prosecution witness at that point of time.

7. Accordingly, keeping in view the entirety and totality of facts and circumstances of the case; specially the factum of the victim now having been examined as a prosecution witness and the petitioner having suffered further incarceration of about 8 months more after the earlier bail petition was dismissed as withdrawn, this Court proceeds to consider favourably the plea for grant of bail to the appellant, since as per the custody certificate there is no other case pending against the petitioner.

Suffice to say, the further detention of the petitioner in custody is not required in the facts and circumstances of the case. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

February 07, 2025
Naveen

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No