



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

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**CRM-M-1155-2025(O&M)
Decided on : 21.02.2025**

DEEPAK

... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Raman Chawla, Advocate for the
petitioner(s).

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Kuljit Singh, Advocate for respondents No.2 & 3.

KIRTI SINGH, J. (Oral)

This is the second petition filed under Section 483 BNSS for grant of regular bail to the petitioner in case FIR No.895 dated 26.11.2022 under Sections 346 (Sections 363, 366A and 376(2)(n) of IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 added later on), registered at Police Station City Hansi, Police District Hisar.

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

“To. Mr. Chowki Incharge, Sisay Pul Chowki, Hansi. Subject: Regarding the search of Vandana (minor age 17 years) daughter of Shri Prem Singh resident outside Char Qutub Gate, Near Mirchunath's hut, Hansi Tehsil Hansi District Hisar. Sir, it is humbly requested that the applicant Sudesh wife of Shri Prem Singh resident outside Char Qutub Gate, near Mirchunath's hut, Hansi Tehsil Hansi District Hisar. I have a daughter named Vandana whose date of birth is 20-10-2005 who is a minor girl. My daughter studies in 12th class in Government Girls Senior Secondary School, Lal Sadak, Hansi. Today on 26-11-2022 at 10.00 am, my daughter Vandana went from home, at that time she was wearing a chocolate colour suit and pink coloured slippers on her feet. At that time I had gone to work. Vandana told my younger daughter that she was going to her friend's house to study. But she did not return home after that. When I returned



from work, my younger daughter told me that Vandana had left home at 10 in the morning and had not returned yet. I inquired at my level among my relatives and her friends but could not find her whereabouts. She has also taken along with her a mobile number 9728037687, 9992085231 which are now switched off. My daughter is 5 feet tall, fair complexioned, has a long face. Her photo is attached. Hence, I request you to register an FIR for the missing of my minor daughter Vandana and trace her as soon as possible and hand her over to us. Date with thanks, Dated 26-11-2022 SD/- Sudesh Applicant, Sudesh wife of Shri Prem Singh resident outside Char Qutub Gate, near Mirchunath ki Kutiya, Hansi Tehsil Hansi District Hisar Mo. 9468141373 Action Police Today I am ASI present at the post that the complainant Sudesh above came to the post and presented the said application, which on the basis of the application was found to be the case of crime 346 IPC, a written complaint was lodged with the constable Jogendra 775/Arsal police station of Hansi, after which the registered case number should be informed through the slip. I am leaving with the complainant for the spot of incident. SD/- Jasbir Singh ASI 88 Sisai Bridge Hasi Date 26.11.2022 AT 08.40 PM Today Police Station above.”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The FIR was initially registered under Section 346 IPC based on the mother's statement regarding the prosecutrix's disappearance. Consequently, an investigation was conducted, and the prosecutrix's statement was recorded before the learned Judicial Magistrate First Class on 17.12.2022 under Section 164 Cr.P.C., wherein she did not level any allegations against the petitioner and explicitly stated that the allegations of rape are false and that both parties were in a consensual relationship. It is further submitted that the petitioner and the prosecutrix solemnized their marriage on 26.11.2022, as evidenced by the marriage certificate and photographs annexed with the petition as Annexures P-3 and P-4. Moreover, despite being granted 11 opportunities, the prosecutrix has failed to appear before the Court for examination as prosecution witness, as reflected in the zimni orders annexed at Annexure P-



01 year, 08 months and 05 days and there is no other case registered against him.

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 01 year, 08 months and 05 days and there is no other case registered against him. He on instructions submits that charges were framed on 25.08.2023 and out of a total of 22 prosecution witnesses, only three 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 15.06.2023. There are several discrepancies in the statements of respondent No. 2. Moreover, as per the zimni order annexed, despite being given numerous opportunities, she has failed to appear and record her statement. 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 22 prosecution witnesses, only three have been 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 violate 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.

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

21.02.2025
Kavita

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