

2025.PHHC:029645



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

Sr. No.220

**CRM-M-1691-2025 (O&M)
Date of decision : 03.03.2025**

Anil Kumar

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. A.K. Khunger, Advocate, for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.0083 dated 25.07.2024, under Sections 137(2) & 96 BNS, 2023 (offences under Section 64 BNS and Section 4 of POCSO Act added subsequently), registered at Police Station Khuian Sarwar, District Fazilka.

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

'State of Sukh Ram son of Pritam Singh son of Sahi Ram resident of village Waryam Khera, Tehsil Abohar, District Fazilka, aged about 29 years. Mobile No. 62842-06238. Stated that I am resident of Village Waryam Khera and I have since kept my sheep, from whom I grow up my family. My marriage was solemnized approximately 7/8 years ago with Anju daughter of Shokaran son of Purkha Ram, resident of Neola Rampura, Tehsil Suratgarh, District Sri Ganganagar. My wife was earlier divorcee, who was already having three children i.e. one daughter and two sons. Both the sons are residing in the maternal grandparents village Neola Rampura and elder daughter Pooja, who is aged about 17 years, who was residing

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with me at Village Waryam Khera. During the intervening night of dated 22.07.2024, we after taking meals had slept outside in the courtyard by switching on the fan, then as when in the morning my wife Manju woke me up and said that Pooja is not being found, then we started her search and till now we have been kept on making search of her in our relations, but till today my daughter Pooja did not find. Now I have come to know that Anil Kumar son of Mana Ram, resident of 9 LM, District Anupgarh has enticed away my daughter Pooja by giving allurements of marriage. Now the son of my paternal uncle said to me that we may give information to the police in this regard, then today I after having been accompanied with son of my paternal uncle namely Ajay Kumar son of Tara Chand son of Badri Ram, resident of Waryam Khera after coming present before you have disclosed you about my daughter. You have recorded my statement, which I have heard, understood, the same is correct. Action may be taken. LTI Sukh Ram above. In the presence of Sd/ in English Ajay Kumar above. Attested Sd/- Pargat Singh ASI, Incharge, Police Post Patti Sadiq, Police Station Khuian Sarwar, dated 25.07.2024.

POLICE PROCEEDINGS: Today myself ASI was present at the police post, then Sukh Ram son of Pritam Singh son of Sahi Ram, resident of Village Waryam Khera after coming present along with son of his paternal uncle namely Ajay Kumar son of Tara Chand son of Badri Ram, resident of Waryam Khera before me, got recorded his above mentioned statement, after writing which in accordance with his version, the same was read over to him, who upon hearing, admitting the same to be correct appended his left thumb impression under his statement, in the presence of whom Ajay Kumar appended his signatures, to which I attested. From the contents of the statement, the commission of offence under Sections 137 (2), 96 BNS, 2023 is made out, on which the statement regarding registration of case

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against the above mentioned Anil Kumar is being sent through PHG Vimal Kumar 6557 to the Police Station Khuian Sarwar. After registering the case, FIR number may be informed. Information may be given to the PCR Fazilka. Special reports may be issued. I along with the companion officials am busy in the official work. Today in the area of Police Post Patti Sadiq AT 5:30 PM. Sd/- Pargat Singh, ASI Incharge, Police Post Patti Sadiq. Police Station Khuian Sarwar, dated 25.07.2024. Today at the police station: Upon receipt of the above mentioned statement at the police station, after registering the above mentioned case for the above mentioned offence against the above mentioned accused, copy of original statement along with the copy of FIR through coming PHG is being sent to the concerned ASI at the spot. After preparing the special reports, the same are being sent through CT Raman Kumar 1268/FZK to the Ld. Area Magistrate as well as Senior Officers. Information is being given to the PCR Fazilka."

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He places reliance upon the statement of PW/2-complainant (father of the victim) and statement of PW/3-victim, who have turned hostile. He further submits that the petitioner has undergone an actual custody of 07 months and is not involved in other criminal case.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He 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 07

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months and there is no other criminal case registered against him. He on instructions submits that charges were framed on 04.10.2024 and out of a total of 14 prosecution witnesses, only 05 witnesses have been examined till date. He however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

6. A perusal of the case in hand transpires that the petitioner is behind the bar since 29.07.2024. 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 14 prosecution witnesses, only 05 witnesses have been examined so far. The complainant and the victim has turned hostile during trial. 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

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

(KIRTI SINGH)
JUDGE

03.03.2025

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No