



CRM-M-1421-2025

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1421-2025

Decided on: 19.03.2025

Vikas Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Avinash Singh, Advocate
for the petitioner.

Mr. R.S. Thind, DAG Punjab

KIRTI SINGH, J. (Oral)

This is the second petition filed under Section 439 of Cr.P.C. for grant of regular bail to the petitioner in case FIR No.211 dated 27.07.2022, under Sections 376, 363, 366-A IPC and Sections 4, 6 of POCSO Act registered at Police Station City Kharar, District SAS Nagar.

2. The contents of the above-mentioned FIR are reproduced herein below:-

“Copy of statement: Statement of Sangita wife of Jaun Singh resident of village Sahal, Tehsil and Police Station Bisauli, Badau, U.P. now tenant at H.No.117, Gali No.7, Sarpanch Colony, Bhago Majra, Tehsil Kharar, Distt. Mohali, aged about 34 years, Mob. 6284601377. Stated that I am resident of above said address and do domestic work. I have four children. from them there are two sons and two daughters. The name of my eldest daughter is Tanu aged about 14 years who is studying in 6th class at Guru Nanak Public School, Bhago Majra. Yesterday on 26.7.2022 my daughter Tanu



came back to house from school. After that she did not come back to house. After coming to house, she took her bath at about 1.30-2.00 p.m. and went outside the house after that she did not return back to house. I and my husband searched her a lot, we could not find her. Today at about 8/9 a.m. my daughter came to house and told that she was enticed away by giving the allurements of marriage by Vikas son of Bhupinder Dass resident of near Gurudwara Sahib, Bhago Majra, Distt. Mohali and he took me to Railway Line Bhago Majra and forcibly committed rape upon me against my wishes. Thereafter I along with my daughter and husband was coming to give information to you but you have met near Mandir, Police station Sadar Kharar. I have recorded my statement to you, action be taken. Sd/ Sangita. Witness Jaun Singh. Attested by L/Sct. Bhupinder Kaur 1324 SAS P.S. City Kharar dated 27.7.2022.”

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case on the allegation that he enticed away the prosecutrix on false pretext of marriage and raped her. He submits that as per the statement of the prosecutrix under Section 164 Cr.P.C. (Annexure P-4), the petitioner was well known to her, and that she left the house on her own accord on 26.07.2022, but it was only on the next day, after she returned home, that the present FIR was got lodged on the statement of the mother of the prosecutrix. He further submits that the petitioner has been in custody since 29.04.2024 and all the material witnesses have been examined. Learned counsel has also placed reliance upon Annexures P-5 and P-6 to submit that the complainant and prosecutrix in the present case have turned hostile.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. Learned State counsel on instructions submits that charges were framed on 12.07.2024 and out of a total

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of 08 prosecution witnesses, 04 prosecution witnesses have been examined and 03 have given up. He further submits that petitioner has undergone an actual custody of 10 months and 17 days and there is no other case pending against him. Thus, in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail. However, learned State counsel does not controvert the fact that the complainant and prosecutrix have turned hostile.

5. 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 29.04.2024. The trial of the case has not made much progress as out of 08 prosecution witnesses, 04 prosecution witnesses have been examined so far. Moreover, both the material witnesses i.e. the complainant and prosecutrix have turned hostile. 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.*

6. 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.

7. 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.

8. 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.

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

(KIRTI SINGH)
JUDGE

19.03.2025

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