

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

2025:PHHC:021738



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CRM-M-2057-2025 (O&M)
Date of decision: 14.02.2025

Vikas

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sahil Gupta, 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.846 dated 27.09.2022 registered for the offences punishable under Sections 376(2)(n), 452, 506 IPC and Section 6 of POCSO Act, 2012 at Police Station Azad Nagar, District Hisar.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Statement of 'J/daughter of Om Parkash resident of near Mata Ka Mandir, Ramgarh Basti, aged 12 years. Stated that I am the resident of the aforementioned address and

we are two sisters and one brother. I am the second eldest and my parents are labourers. Most of the time, I used to remain alone at the house and around 4 months back, my parents had given a room on rent, in our house to Vikas son of Unknown. That he used to sell chowmien on a cart near our house. Around 3 months back, Vikas came to my room at our house and without my consent, he committed wrongful acts with me and thereafter, he threatened me by saying that if I disclose regarding this incident to anybody, then he will kill my brother. That I got scared from this threat and due to this reason, I did not disclose regarding this incident to my family members. Thereafter, Vikas used to visit our house and whenever my parents were out of the house, then he used to commit wrongful acts with me. today on dated 27.09.2022, I got a sudden pain in my stomach and I told regarding this to my parents. My mother inquired from me regarding my periods and I told her that I did not get my period the previous month. That thereafter, I came to the police station along with my mother. Legal action may be taken against the above Vikas. I have got my statement recorded without any fear or pressure. I have heard and understood the statement, which is correct. Statements have been given in presence of my parents.

Sd/- Jamuna dated 27.09.2022. XXXXX”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 31.01.2023. Learned counsel for the petitioner further argued that the petitioner has been falsely implicated into the FIR in question on account of tenancy related disputes. Learned counsel for the petitioner has iterated that the evidence of the prime prosecution witnesses, namely, the victim/FIR-complainant as also mother of the victim have been recorded & they have turned hostile and trial is not likely to be culminated

into conviction & hence no useful purpose would be served by keeping the petitioner behind the bars. Hence, regular bail is prayed for.

4. Ld. 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 31.01.2023 & thereafter investigation was carried out and challan was presented on 15.03.2023 and charges were framed on 13.04.2023 wherein total 22 witnesses have been cited, out of which only 9 have been examined till date. It is not in dispute that evidence of the prime private witnesses already stands recorded. The rival contentions of the learned counsel for the parties including the factum of the weightage required to be attached to the testimony of the hostile witnesses namely, the victim/FIR-complainant as also mother of the victim, shall be gone into during the course of the trial. 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 third petition. The first petition preferred on behalf of the petitioner came to be withdrawn on 16.05.2024 vide CRM-M-22796-2024. The second petition i.e. CRM-M-63624-2024 preferred on behalf of the petitioner was dismissed as withdrawn on 07.01.2025, as the learned counsel for the petitioner has sought to withdraw

the same on account of certain typographical errors which have crept into in that petition.

7. Accordingly, keeping in view the entirety and totality of facts and circumstances of the case; specially keeping in view the fact that prime prosecution witnesses namely the mother of the victim as also the victim have turned hostile and keeping in view the extended custody period of the petitioner, this Court proceeds to consider favourably the plea for grant of bail to the petitioner. As per the custody certificate dated 13.02.2025 filed today by the learned State counsel, the petitioner has suffered incarceration for more than 2 years. As per the said custody certificate the petitioner is stated to have been involved earlier in another FIR bearing No.736 dated 23.11.2021 registered under Sections 323, 354-A, 506 IPC at Police Station Azad Nagar, Hisar, but it is not in dispute the petitioner stands acquitted therein vide order dated 22.02.2023 passed by the concerned trial Court. 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 14, 2025
Naveen

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