

2025:PHHC:026992



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

Sr. No.224

**CRM-M-2374-2025 (O&M)
Date of decision : 25.02.2025**

Allam Ali @ Alm Ali

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Ashok Giri, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Mr. M.R. Sharma, Advocate, for the complainant.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.44 dated 19.02.2024 under Sections 363/366-A/149 IPC (Sections 365/120-B/376-D/354-A IPC and Sections 4 & 8 of POCSO Act added later on), registered at Police Station Dasuya, District Hoshiarpur.

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

'Statement of Mukhtiar Ali son of Alamdeen resident of Athoot, P.S. Billawar, District Kathua, State Jammu & Kashmir aged about 25 years, stated that I am resident of above mentioned address and am a labourer. We are three brothers and four sisters. My eldest sister is Reshma Bibi aged about 17 years. On 17.02.2024, I along with my sister Rashma Bibi came to Mohammad Shahi who is son of my uncle and resides at Chotta Gabawal. On 19.02.2024, when we were going back to our village and reached at main road near village Gabawal Bhagottipur then a car make Scorpio colour while without registration number was seen parked there. Sudam son of

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Hasandin resident of Changram District Kathua was sitting on driver seat whereas Ali Hasan whose address I do not know was on conduct seat. Shaukat Ali son of Shahida resident of Jbahal, Husandeen son of Masoom Ali resident of Jhabal were on rear seat whereas Jukob son of Lachyo resident of Ghuman along with Shama son of Babudeen resident of Mahipur, were sitting on last seat. On seeing us, they came out of car and kidnapped my sister after pushing me aside. I went to Mohammad Sai son of my uncle. I along with Mohammad Sai, was searching my sister. You have met us. Action be taken against abovesaid persons. LTI Mukhtiar Ali witness Mohammad Sai attested by Anil Kumar ASI PS Dasuya dated 19.02.2024.'

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He has not been named in the FIR and the only allegation qua the petitioner is that he touched the victim with bad intention. He has been nominated as an accused on the basis of disclosure statement of the co-accused after a delay of 09 months. He further submits that the police vide DDR No.17 dated 03.11.2024 added Section 354-A IPC while nominating the petitioner in the present case. The petitioner has undergone an actual custody of 02 months and 26 days 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 02, months and 26 days and there is no other criminal case registered against

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him. He on instructions submits that charges were framed on 17.02.2025 and out of a total of 06 prosecution witnesses, none has 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 29.11.2024 . 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 06 prosecution witnesses, none has been examined so far. The petitioner has not been named in the FIR. The petitioner has been nominated as an accused on the basis of disclosure statement of the co-accused after a delay of 09 months. 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

25.02.2025

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No