



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

225

CRM-M-2100-2025(O&M)
Decided on: 21.01.2025

Rajat

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Mohan Singh Rana, Advocate
for the petitioner(s).

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 has been invoked for grant of regular bail to
the petitioner in case FIR No.308 dated 29.10.2023, under Sections 328,
344, 363, 366, 376(2)(n) of Indian Penal Code, 1860, registered at Police
Station Uchana, District Jind.

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

*“To, SHO, Police Station Uchana. Sir, it is requested that, /
Umed S/o Leela, caste Chamar am a resident of village Bhosla.
On the night of 28.10.2023, my daughter Sonika, whose age is
19 years, fair complexion, height 5 feet 6 inches, wearing a
yellow colored salwar suit, put sleeping pills in our food and
made us sleep deeply and went away from the house without
telling anyone. When we woke up at around 5 AM, we did not
find Sonika at home, when we searched for our daughter Sonika
at our own, we came to know that Rajat S/o Shamsheer, caste
Balmiki, resident of Bhosla, has lured my daughter and taken
her away from the house. Sonika has also taken her important
documents and some gold and silver jewelry with her. When we
contacted Rajat on his mobile number 81048-48042, the phone
was switched off. We request you to provide us legal assistance*



in finding our daughter Sonika. It will be so kind of you. Thank you Sd/- Applicant Umed’.

3. Learned counsel for the petitioner, *inter alia*, submits that petitioner is an innocent person and has been falsely implicated in this case. The prosecutrix was major at the time of the incident and it is a case of consensual relationship. There are major contradictions in the statements of PW-1 and PW-2 which cast doubt on the prosecution story. He further submits that petitioner has undergone an actual custody of 01 year, 01 month and 11 days.

4. *Per contra* learned State counsel submits 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 actual custody of 01 year, 01 month and 11 days and is involved in one more FIR under Section 379 IPC. He on instructions submits that charges were framed on 20.02.2024 and out of total of 19 prosecution witnesses, two 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. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. The charges were framed on 20.02.2024 and out of total of 19 prosecution witnesses, 02 have been examined till date. The petitioner has undergone actual custody of 01 year, 01 month and 11 days. Further detention of the petitioner will not serve any useful purpose and will be violation of 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. As regards the submission of learned State counsel that petitioner is involved in one more criminal case, it has been held by the Hon'ble Supreme Court in ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced herein-below:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

8. 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 she 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.

09. 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.

10. 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.

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

(KIRTI SINGH)
JUDGE

21.01.2025
Kapil

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