

CRM-M-3028-2025 (O&M)

259 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:058803



CRM-M-3028-2025 (O&M)
DATE OF DECISION : 05.05.2025

MOHAN ... PETITIONER
STATE OF HARYANA V/S ... RESPONDENT

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Abhishek Jindal, Advocate for the petitioner.
Mr. K.D.Sachdeva, DAG Punjab.
Mr. Wazir Singh, Advocate for the complainant.

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KIRTI SINGH, J. (ORAL)

The jurisdiction of this Court under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) has been invoked for grant of regular bail to the petitioner in case FIR No. 192 dated 22.07.2024 under Sections 137(2), 87, BNS, 2023 registered at Police Station Madlauda, District Panipat.

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

“To SHO, Respected Sir, I Rajesh s/o Sh. Jagdish caste Kashyap resident of VPO Urlana Kalan and working as a daily laborer. I have 4 kids and my elder daughter namely Shweta aged about 17 Years and studying in 9 Standard. That today at 22.07.2024 around 08:00 AM she had left the house without informing anyone. I on my own has made efforts to search my daughter but failed to get any clue of her. It is therefore prayed that kindly help in searching my daughter and legal action may kindly be taken. Description of the girl - fair complexion, fair face, slim chubby body, height 5 feet, 9th pass, age 17 years, wearing pink colour suit salwar and

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slippers. SD- Rajesh, 9728138592, Action Police- Date 22.07.2024.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present FIR registered on the statement of the father of the prosecutrix to report her as missing. It has further been submitted that no case is made out against the petitioner and as per Section 183 of BNSS, the victim had clearly stated that she willingly and on her own volition, left her parental home and thereafter called the petitioner. He has further stated that the petitioner is in custody since 25.07.2024 and there is no other case registered against him. It has also been stated that the victim and the complainant have been examined and they turned hostiled while appearing before the trial Court.

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 09 months and 07 days and there is no other case registered against him. He on instructions from the concerned investigating officer submits that charges have been framed on 12.12.2024. He also submits that out of a total of 13 prosecution witnesses, only 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.

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6. A perusal of the case in hand transpires that the petitioner has undergone an actual custody of 09 months and 07 days and there is no other case registered against him. Material witnesses have been examined. Both the victim and the complainant have 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 violative 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 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

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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.

05.05.2025

Janki

**(KIRTI SINGH)
JUDGE**

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