



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-3458-2025(O&M)

Decided on : 27.01.2025

DEEPAK KUMAR

... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Jasdev Singh Mehndiratta, Advocate and
Ms. Jyotnoor Kaur Sethi, Advocate for the
petitioner(s).

Mr. R.S.Thind, DAG Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.368 dated 21.08.2024 under Section 376 of IPC (report under Section 173 of Cr.P.C. has been presented under Sections 376, 506 and 376(2)(n) of IPC), registered at Police Station Zirakpur, District SAS Nagar (Mohali).

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

"Copy of statement, "Statement of Sonia daughter of Praveen Kumar (wife of Deepak Kumar) resident of H.No. 366, Shivalik Vihar, Patiala Road, Zirakpur aged about 23 years, Mobile No. 99883-13143. Stated that I am resident of above mentioned address and doing household work. My parental family resides at H.No.3396, Street No.18, New Madhopuri, P.S. Sunder Nagar, Ludhiana. We are three sisters and one brother, who is elder of all three of us. I am younger to him and then my sisters, who are younger to me. I and my brother Sunny are married and I am having three maternal aunts (Massi). Eldest one is Vanita wife of Gholli Ram resident of Pawati Kalan, P.S. Shamli, Uttar Pradesh. On 04.02.2024, my marriage was solemnised with Deepak Kumar son of Laxmi Chand resident of H.No.366, Shivalik Vihar, Patiala Road, Zirakpur. I became pregnant with my husband Deepak Kumar within 4months of marriage. Son of my maternal aunt Vanita namely Deepak had come to my parental house in Ludhiana



in the year 2018 in connection with some work and he stayed in our house for about two years. Later he took a room on rent and started residing separately in the same mohalla. He entrapped me with his sweet talks and in December 2020, he brought me to Chattbir Zoo, Zirakpur and in the area of the zoo, he committed rape upon me under the bushes, despite my resistance. He threatened me with elimination not to disclose about the same to anyone else. Later, on many occasions he committed rape upon me in Ludhiana itself. When I used to refuse son of my maternal aunt namely Deepak, he used to threaten me. Thereafter, in the year 2023, discussions with regards to my marriage with Deepak Kumar son of Laxmi Chand resident of H.No.366, Shivalik Vihar, Patiala Road, Zirakpur were started. However, when son of my maternal aunt, Deepak came to know about the same, he tried a lot to somehow stop my matrimonial alliance but he could not succeed. He is unhappy with my marriage. I somehow gained courage and informed my husband Deepak in this regard. Therefore, today I alongwith my husband Deepak Kumar was going to inform you at the police station, when you met me at Patiala Chowk, Zirakpur. Legal action may be taken against son of my maternal aunt namely Deepak and I be given justice". Sd/- Sonia (99883-13143), Verified by sd/- Deepak Kumar (99883-13165). Attested by L/Ct. Praneet Kaur No.2245/SAS Nagar, Attested by sd/- Ashwani Kumar, ASI, P.S. Zirakpur dated 21.08.2024. Police Proceedings - Today I ASI alongwith HC Harwinder Singh No.812/ SAS Nagar, L/Ct Praneet Kaur No.2245/SAS Nagar on a private gypsy were patrolling at Patiala Chowk in connection with checking of suspected persons, when above named Sonia daughter of Praveen Kumar (wife of Deepak Kumar) resident of H.No.3396, Street No.18, Mohalla New Madhopuri, P.S. Sunder Nagar, Ludhiana came and got recorded her statement before L/Ct Praneet Kaur, which was reduced into writing as per her dictates and thereafter, read over to her. After hearing the same, she appended her signatures in English. The statement was further verified by her husband Deepak Kumar, which was further attested by L/Ct Praneet Kaur. From the contents of the statement so recorded, offence punishable u/s 376 IPC is found to have been committed. Accordingly for registration of FIR against Deepak Kumar son of Gholli Ram resident of Pawati Kalan, P.S. Shamli, Uttar Pradesh, same is being sent by



hand through L/Ct. Praneet Kaur No.2245/Sas Nagar. After registration of Fir, special reports be issued. Sd/- Ashwani Kumar, ASI, P.S. Zirakpur dated 21.08.2024. In the area of Patiala Chowk, Zirakpur time 9:30 pm. On receipt of above statement, above mentioned FIR is registered under the aforesaid section and copies of FIR sent to Illaqa Magistrate and senior officer through post. Incharge Control room and senior officers are being informed on telephone. Copy of FIR alongwith original statement handed over to L/Ct Praneet Kaur No.2245/SAS Nagar for further handing over the same to ASI Ashwani Kumar of P.S. Zirakpur. 13. Action taken - Since the above information reveals commission of offence - Registered the case and took up the investigation 2) Directed - ASI Ashwani Kumar, 786/SAS, to take up the investigation. FIR read over to the complainant/ informant, admitted to be correctly recorded and a copy given to the complainant/ informant, free of cost. ”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, asserting that the relationship between the petitioner and the prosecutrix was consensual. It is contended that the FIR has been registered after an inordinate delay of more than four years. The learned counsel refers to Annexure P-8 (marriage certificate) and Annexures P-9 and P-10 (photographs), which substantiate that the prosecutrix had solemnized the marriage with the petitioner, and both parties were living together as husband and wife. The complainant without obtaining divorce from the petitioner, has performed marriage with some other person and the present FIR has been lodged after her second marriage. He further submits that the petitioner has undergone an actual custody of 05 months and 03 days and is not involved in any other criminal case.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. 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 05 months and 03 days and is not involved in any other criminal case. He on instructions from the concerned investigating officer submits that charges were framed on 26.09.2024 and out of a total of 30 prosecution witnesses, only one has been examined till date.

5. Heard the rival submissions made by learned counsel for the parties.

6. 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 23.08.2024. 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 30 prosecution witnesses, only one has been examined so far. 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 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.



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- (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 her 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 application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

27.01.2025

Kavita

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