

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228

CRM-M-4525-2025(O&M)
Decided on : 08.04.2025

MUSHARAF PARVEJ

. . . Petitioner(s)

Versus

STATE OF HARYANA

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Balraj Gujjar, Advocate
for the petitioner(s).

Mr. Anmol Malik, DAG, Haryana.

Mr. Waqar Ahmed Khurshid, Advocate for complainant

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.262 dated 17.07.2024 under Sections 115, 332(c), 351(2) and 74 of BNS and Section 8 of Protection of Children from Sexual Offences Act, 2012, registered at Police Station Ferozepur Jhirka, District Nuh.

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

“TO, The Incharge of the Police Station, Firozpur Jhirka. Subject: application in respect of taking Legal action against Accused Musraf son of Nauman resident of village Reegad, police station Firozpur Jhirka. Sir, I requested you that I ail Tahir son of Rujdar resident of village Reegad, Tehsil- Firozpur Jhirka, District Nuh. The situation is such that today on 16.07.2024, it is about 2 o'clock that all the members of our family were in the new house and my daughter Samaiya aged 16-17 years went to the old house to get clothes. That the above accused Musharraaf aged 26-27 years, married, has opened a grocery shop near our old house and has installed cameras on all three sides of the shop. When he saw on the camera that my daughter coming alone, the above accused entered our house with bad intentions and caught my daughter Sumaiyya inside the house and started doing obscene acts with her. When my daughter created a noise, the above accused threatened to kill her and ran away from there. When the girl came home crying and told about the dirty act

of the accused, I went to the shop of the above accused and started arguing with him, then he abused me and started saying that I did not go to your house nor did I tease the girl. When I asked him to show the video of the camera, he pushed me hard and hit me with a stick kept inside the shop. When I tried to stop it with my hand, the stick hurt my hand. He threatened me to run away from here or else he would kill me and called his entire family with sticks. The said accused has done such dirty acts once or twice before and on the contrary he threatens to implicate us in cases etc. whereas cameras are installed in my house also and recording of his entry into our house is coming. Hence I request you to take strict legal action against the accused. I would be highly grateful to you.”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present FIR, which was registered after a delay, i.e. on the day after the date of the alleged incident. He submits that there is no evidence on record to indicate towards the complicity of the accused. In fact, the incident was captured in the CCTV cameras installed at the shop of the accused, and from the footage it can be seen that the accused was dragged out of his shop and given beatings by the relatives of the prosecutrix. He further submits that the petitioner has undergone an actual custody of 06 months and 10 days and there is no other case registered against him.

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 06 months and 10 days and there is no other case registered against him. He on instructions submits that charges were framed on 19.12.2024 and out of a total of 11 prosecution witnesses, only two have 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 28.09.2024. 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 11 prosecution witnesses, only two have 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 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 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

08.04.2025
Kavita Nain

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