



CRM-M-6867-2025

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-6867-2025

Date of decision : 11.02.2025

Arun alias Joni Rana

...Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Parminder Walia, Advocate for the petitioner.

Mr. Neeraj Poswal, AAG Haryana.

SUMEET GOEL, J. (Oral)

1. The present second petition under Section 483 of BNSS, 2023 has been filed by the petitioner seeking regular bail in FIR No.0066 dated 26.03.2024 registered under Sections 323, 376(2)(n), 506 of IPC at Police Station Matlauda, District Panipat.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:

“Complaint is an under, SHO Police Station Matlauda. Respected Sir, my name is Geeta and I was married at Village Kavi, one boy from Village Malishiana came to my house whose name is Jonny Rana he came to my house in a relation of brother and sister but after sometime he kept wrong eye on me. He gave me sleeping pills and took my pictures and after that he started blackmailing me and made physical relation with me and also called me outside. My husband was admitted in Rehab Centre and i remain alone at my house and with this reason he takes advantage of me when i denied to meet him outside and also stopped him to enter my house then on 10th of March at night he jumped into my house and had done forcefully and gave beatings to my 14-year-old daughter and to me. On 11th of March again he called me outside of the house but i again refused for the same then on 24th of March he again came to my house after jumping from the wall and he was in drunken condition, when he saw that



I was going to call my family then he jumped out from my house. On same time I called at 112 and also giving threatenings that he will commit suicide. I year 2022 is sold my paddy crop of Rs.85,000/- and thus same also took by him. Legal action be taken against him. SD/-xxxxx”

3. The petitioner had earlier applied for grant of regular bail before this Court which was dismissed as withdrawn on 18.09.2024. The relevant part of said order reads as under:-

“Learned counsel for the petitioner seeks permission to withdraw the present petition with liberty to file afresh on the same cause of action with better particulars.

Ordered accordingly.”

Thereafter, the present petition i.e. the second petition for grant of regular bail has been preferred by the petitioner on 04.02.2025.

4. Learned counsel for the petitioner has iterated that in the initial complaint, based on which the present FIR was registered, there is no mention of the petitioner having taken any obscene pictures of the complainant. However, during the recording of the statement of the complainant under Section 164 Cr.P.C., an improvised version was given wherein the complainant alleged that the petitioner had taken obscene pictures. It has been further iterated that the petitioner has blackmailed the complainant by showing certain photographs, allegedly taken after administering sleeping pills to her. However, no medical examination of the victim as regarding administering any intoxicating substance has been got conducted. Furthermore, during investigation, no such material was found on the mobile phone of the petitioner which suggests that any such incident as alleged has occurred. According to the learned counsel, a bare perusal of the FIR reveals that there is no mention of the specific time-line in which the



photographs. It has been further submitted that the complainant is a habitual offender and has a history of making similar allegations against different persons as earlier also she has implicated her brother-in-law under the similar set of allegations. Learned counsel asserts that the petitioner has no connection with the alleged crime and his implication in the instant case is a clear misuse of the legal process. Furthermore, the allegations are concocted, lacking any apparent motive or rationale for the petitioner to have committed such an offence. It has been further argued that the Sessions Court has failed to appreciate that the present case is a result of personal vendetta wherein the complainant, in collusion with the police, has manipulated the facts to falsely implicate the petitioner. It has been further argued that the petitioner is in custody since 27.03.2024 and there is nothing left to be recovered from him. Furthermore, the investigation in the case has already been completed and the challan stands presented. Given that the trial is likely to take a long time to conclude, the learned counsel submits that no useful purpose would be served by keeping the petitioner in custody. In this view of the matter, learned counsel has prayed for grant of regular bail.

5. Learned State counsel has vehemently opposed the grant of regular bail to the petitioner on account of the present petition being non-maintainable as it is the second petition for grant of regular bail as also on merits thereof. Learned State counsel further asserts that allegations raised are serious in nature as the complainant-victim has levelled specific allegations of rape and beatings against the petitioner which are grave in nature. Moreover, the testimony of the victim/complainant is yet to be recorded and hence there is every likelihood that the petitioner may



pressurize the complainant-victim in case enlarged on bail. Learned State counsel has further submitted that out of total cited 17 prosecution witnesses, none has been examined and charges have been framed on 20.11.2024.

6. I have heard the learned counsel for the rival parties and have gone through the available records of the case.

7. It would be apposite to refer herein to a judgment passed by this Court in ***Rafiq Khan vs. State of Haryana and another: 2024: PHHC:054064***; relevant whereof reads as under:-

9. *The paramount issue, in any plea for grant of regular bail, is the liberty of an individual. Indubitably, within our society and jurisprudence, liberty is a cherished foundational principle and has fundamental ascendancy over all other attributes of social order. Even within the framework of Constitution, this principle is made conspicuous, inter alia, in Article 21 of our Constitution that no person shall be deprived of his personal liberty except according to procedure established by law. The Cr.P.C., 1973 is one such procedural law which permits curtailment of liberty of anti-social and anti-national elements. Yet, liberty of an individual, the accused, must not transgress the rights of another individual, the victim, in terms of right to dignified everyday life without any imminent fear or threat. Additionally, the rights of the collective of individuals viz. the State/Society at large, also cannot be neglected. Therefore, while countenancing the facts for considering the bail, the rights of the triad of accused, victim and the State (Society at large) ought to be entailed. Ergo, while considering a bail plea, the Court ought to take into account this core concept(s).*

9.1 *An analytical perusal of Cr.P.C. explicates that this statute does not contain any provision relatable to maintainability or otherwise of second/successive bail petitions, including one(s) seeking regular bail. Once there is no statutory prohibition provided for in law, a Court is not logically empowered to import into it such prohibitions, especially in case of codified and legislated law. It is trite law that Courts ought not to read a provision in codified law which has not been specifically provided for by the legislature especially when such reading results into deprivation of rights. The bar contained in Section*



362 of Cr.P.C. can, by no stretch of legal imagination, be said to be barring the filing of second/successive regular bail petition.

9.2 The Hon'ble Supreme Court in case of **Babu Singh** case (supra) has held that rejection of a bail petition does not, by itself, forbid a Court from considering another one, later in point of time. Similar is the ratio decidendi of the judgment of Hon'ble Supreme Court in **Kalyan Chandra Sarkar** (supra). Ergo, it can be safely inferred that the decision of a Court qua regular bail petition is essentially an interlocutory order and hence the postulation of res judicata does not apply to its realm.

9.3 The issue that next craves attention is as to what are the factors/parameters for consideration of second/successive regular bail petition(s).

9.4. The concordant legal position is that the essential pre-requisite for consideration of second/successive regular petition is the material/substantial change in circumstances and factors of alike nature. Indubitably, the further period of incarceration suffered by the petitioner-accused after rejection/withdrawal of first/earlier plea for bail, pace of trial, the witnesses turning hostile or not supporting prosecution case and changed medical condition(s) of accused would be pertinent factor(s). It goes without saying that these factors are only illustrative in nature and cannot by any means be said to be exhaustive.

9.5 No rigid or universal criterion can possibly be delineated to conclusively govern the exercise of judicial discretion, in determining, as to what would constitute as the above stated substantial change in circumstances. Factual flexibility, one additional or different fact, may cause a sea of difference. There is no gainsaying that each case has its own distinct and unique facts and, hence, exercise of such judicial power is best left to the judicial discretion of a Court, in accordance with the settled norms of our jurisprudence.

10. As an epilogue to the above discussion, the following principles emerge:

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.



III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed.”

8. The contentions raised by learned counsel for the petitioner were available to the petitioner at the time when the first petitioner for regular bail was dismissed. Thus, as such no fresh substantial change in the circumstances has been brought forward which would indicate that the petitioner is entitled to maintain his second petition for grant of regular bail. For maintaining a second petition for bail, it is *sine-qua-non* to bring forth change in circumstances. This fact assumes more importance when no undue delay in trial has been brought forth. The first regular bail petition filed by the petitioner was dismissed as withdrawn on 18.09.2024 and, indubitably, approximately 4½ months have passed since then. However, since the first regular bail petition was dismissed as withdrawn and there was no



adjudication on merits thereof, this Court deems it appropriate to decide the instant one on merits thereof as well.

8.1 The allegations made in the FIR against the petitioner relate to committing forcible sexual assault upon the complainant-victim by blackmailing her after surreptitiously procuring her objectionable photographs, which the accused (petitioner herein) allegedly obtained by administering an intoxicating substance to the complainant-victim without her knowledge or consent. Furthermore, the complainant-victim has categorically asserted that on at least two separate occasions, the accused (petitioner herein) trespassed into her house while being under the influence of intoxicants and issued threats. The rival contention of learned counsel for the parties; that no recovery is to be effected from the petitioner and there is no medical evidence of the victim regarding administering any intoxicating substance; cannot be looked into, in detail, at this stage, lest it may prejudice the trial. Furthermore, the allegations against the petitioner are serious in nature and he is required to substantiate his defence by leading cogent evidence.

8.2. The nature of allegations made against the petitioner, especially the fact that the petitioner is alleged to have deceitfully administered intoxicating substance to the complainant-victim, following which he unlawfully procured obscene photographs of the complainant-victim and established physical relation with the complainant-victim under the fear of blackmailing, disentitles him for grant of regular bail. Moreover, on 10.03.2023, the petitioner is alleged to have unlawfully trespassed into the house of the complainant-victim where he physically assaulted the complainant-victim thereby endangering her safety and well-being. The



investigation in the present case has been duly concluded; however, the testimony of the complainant-victim is yet to be recorded. The stand of the investigating agency before this Court is that granting the petitioner the concession of regular bail at this stage, prior to the recording of the statement of the complainant-victim, may create a substantial risk of pressurizing, coercion or intimidation of the complainant-victim. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of regular bail. The petition is, thus, devoid of merits and is hereby dismissed.

9. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.
10. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

February 11, 2025
Ajay

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