



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

228

CRM-M-7161-2025 (O&M)
Date of decision: 24.03.2025

ASIP

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Ms. Ashu Rana, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH. J.(Oral)

CRM-10118-2025

For the reasons mentioned in the application, the same is allowed.

Annexure P-4 is taken on record subject to all just exceptions.

CRM-M-7161-2025

1. 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.443 dated 07.10.2024 under Sections 137 (2) and 96 of BNSS (Sections 364 (b) BNSS and 6 of Protection of Children from Sexual Offence Act 2012 added later on), registered at Police Station City Zirakpur, District Mohali, Punjab.

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

“stated that Deepa Devi wife of Late Shishu Pal Resident of Village Jagdishpur Majra, Tehsil Chandausi, District Moradabad (U.P) Current R/o House No. 18, Adarsh Nagar, Zirakpur, PS Zirakpur, District S.A.S. Nagar, Mob. No. 62806-90752" I hereby state that I am resident of afore-mentioned address and I labour



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work. My husband Shishu Pal had died about 5 Years ago. I have 4 daughters and 1 son. My eldest daughter is Khushi whose date of birth is 04.11.2008. At the time of applying for her birth certificate we had written her name as Sumnita. Yesterday dt. 06.10.2024 my sister-in-law (darani) Kailasho Devi wife of Bharat Singh resident of Village Bhabat had visited my house and at time about 4:30 PM at the time of going back from my house my daughter Khushi also went with my sister-in-law (darani) to Village Bhabat. In evening I made phone call to my daughter Khushi but her phone was switched off. Then I made phone call to my sister-in-law (darani) Kailasho Devi and inquired about my daughter Khushi and said that she has not come back home. Then she said that she has gone from my house long time ago by saying to me that I am going home. When my daughter did not come back home then I tried to trace her in the vicinity but I could not find her. Today I have come to know that a youth namely Asif son of Kalu Resident of Village Dahgawan, PS Zarif Nagar, District Budaun, U.P. has taken my daughter with him by enticing her on the pretext of marriage.”

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He further contends that in the statement of victim under Section 164 of Cr.P.C., the victim has categorically stated that she went of her own accord with the petitioner. It is also submitted that the victim has turned hostile. The petitioner has undergone an actual custody of 05 months and 14 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 05 months and 14



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days and there is no other case registered against him. He on instructions from the Investigating Officer submits that charges were framed on 02.01.2025 and out of a total of 22 prosecution witnesses, only three have been examined till date. However, it is an undisputed fact that the victim has turned hostile.

5. 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 09.10.2024. The victim has turned hostile. 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 22 prosecution witnesses, only three have been examined so far. Therefore, the trial in the present case will not conclude anytime soon. 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.**

6. 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.

7. 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.
8. 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.
9. Pending application(s), if any, also stands disposed of accordingly.

24.03.2025
amandeep

(KIRTI SINGH)
JUDGE

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