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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.216

**CRM-M-7205-2025 (O&M)
Date of decision : 13.02.2025**

Jafruddin

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Saurav Bhatia, Advocate, for the petitioner
Through video conferencing.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.20 dated 25.04.2024 under Sections 376, 450 & 506 IPC, registered at Women Police Station, District Nuh.

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

'To, SP District Nuh. Subject-Application against Zafaruddin son of Amin resident of Dihana Tehsil Nuh. Sir, it is requested that I Asmina daughter of Asruddin resident of Dihana Tehsil and District Nuh. My mother Saliman had gone to the relative's wedding. Yesterday on 24.04.2024, at about 12 o'clock at night, I was sleeping alone in the room. Due to the heat, the door of the room was open and my two sisters were sleeping outside and my father Asruddin was sleeping in the drawing room, then Zafaruddin son of Amin entered into my room at night with malafide intentions, as soon as he came, he covered my face with a cloth and opened the knot of my salwar and he closed the door of the room and forcibly committed rape with me, at that time he covered my face with a cloth. Due to

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which I could not make any noise. Thereafter, as soon as Zafaruddin opened the door of the room, he threatened to kill me and ran away. I alongwith my two sisters have identified Zafaruddin. I am aged about 20 years and I am unmarried. As soon as the above said person ran away from my room, he was recognized and later this Zafaruddin was recognized by my brother Shahrukh who was sleeping there. Thereafter clamour was raised, my father Asruddin and brother Shahrukh given beatings to Zafaruddin and he ran away. That at the time of night, my father and brother hold talk with Zafaruddin's father and his family members but they did not given any answer. My mother had gone out yesterday, today in the morning when my mother returned from the wedding. Now I have came to file application. On the contrary, since last night, my father, my brother and my family members are receiving life threats from Zafaruddin and his family members. Therefore, it is requested that FIR may kindly be registered against Zafaruddin for forcefully committing rape with me and my medical examination be conducted. I shall be very thankful to you. Dated 25.04.2024. Applicant. Asmeena daughter of Asruddin resident of Dihana Tehsil and District Nuh. Mobile No. 9813512077.'

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He, while placing reliance on FSL report (Annexure P3) and MLR of complainant/victim (Annexure P4) submits that no semen was detected on exhibits and the victim has not suffered any injury on her person. Therefore, in the absence of any injury, the story put-forth by the prosecution is not believable. He further submits that the petitioner has undergone an actual custody of 04 months and 19 days and is not involved in other criminal case.

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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 04 months and 19 days and there is no other criminal case registered against him. He on instructions from SI-Nasim Akhtar submits that charges were framed on 20.12.2024 and the complainant was examined on 29.01.2025. 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.

6. A perusal of the case in hand transpires that the petitioner is behind the bars since 24.09.2024. 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. 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

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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 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.

(KIRTI SINGH)
JUDGE

13.02.2025

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No