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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8129-2025 (O&M)

Date of Decision: 18.02.2025

DEEPIKA

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sandeep Saini, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

...

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.349 dated 10.08.2024, registered for the offences punishable under Sections 307, 115(II), 351 (III), 3(V) of BNS, 2023 (Sections 238, 317(2), 309(6), 61(2) and 311 of BNS, 2023 added later on) at Police Station Zirakpur, District SAS Nagar.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Copy of statement, "Statement of Raj Kumar S/o Shri Bairam Dutt Sharma R/o House No. B-302, Royal Umpire Society, Pir Muchhala Police Station Dhakoli, District S.A.S. Nagar Age around 57 years Mobile number 97800-31626, 92165-50036. Stated That I am a resident of the above address and work at Punjabi Tribune newspaper, Chandigarh. On Dated 08.08.2024 I came to Zirakpur from my home for personal work in my car number HR-03-U-3077 and the time was around 11.30. PM But when I went to nearby Lucky Dhaba Zirakpur, a girl standing on the road signaled me to stop. And requested me to leave her at A.K.M. Gurudwara Sahib Opposite Palace Patiala Road Zirakpur, so I made that girl sit in my car as it was late at night. When I am in front of A.K.M. Palace When I stopped the car to pick up the girl, a bullet motor cycle came from behind at the same time as my car Stopped, on which 3 young boys were riding. Who quickly got down from there motorcycle and A young man among me



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opened the conductor side door of my car and sat inside. Suddenly my mobile was taken away and a young man opened the door of the seat behind me and entered inside. He held the knife in his hand and placed it on my neck and said, 'Give us whatever you have. The young man sitting next to me took out the gold chain around my neck and Karra from my right hand. Took off the pot, kept in my dose board and took out a cash of Rs 12000/- By scaring me and asking for the code of my mobile phone, and he sent from my Google Pay Rs. 20000/- to some Google Pay number, Transferred. When I started arguing with him, a young man took out a knife from his box. When he started to attack me, I put my right hand forward in defense and this knife was in my right hand. When I touched it with a little finger, I started crying loudly, then these three people took out my car keys and my mobile, they took the phone and fled away on his Bullet motorcycle. I read the number of the motorcycle as CH-01BZ-8064. Then I called my home with the help of a passerby and my daughter Aastha Sharma came and took me home. On 09.08.2024 due to severe injury on the finger of my right hand, my relatives took me to Civil Hospital Dhakoli for treatment. Where the doctor treated me and discharged me. Due to my unwell condition, I did not registered FIR of this accident. Could not get my statement recorded with you. Legal action is taken against, three unidentified young men of Bullet motor cycle number CH-01BZ-8064 and one unknown girl. Action should be taken. Today I came to the police station and got my statement written to you, I heard it is correct. Sd/-Raj Kumar; attestation is correct/- Ravinder Singh ASI Police Station Zirakpur dated 10.08 2024."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 15.08.2024. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated into the FIR in question. Learned counsel for the petitioner has further submitted that the requisite TIP (Test Identification Parade) was not carried out in accordance with law. Learned counsel for the petitioner has further argued that the petitioner is a young woman aged 23 years with no criminal antecedents. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 15.08.2024 whereinafter investigation was carried out & challan was presented on 08.10.2024. Total

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17 prosecution witnesses have been cited and none has been examined till date. Therefore, it is indubitable that the culmination of the trial will take its own time. The rival contention of the learned counsel for the parties give rise to debatable issues which shall essentially be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

The petitioner is a young woman aged about 23 years hence her bail petition ought to be considered in view of proviso to Section 480(2) BNSS. It is pertinent to mention herein that the proviso to Section 480 BNSS, 2023 is *para materia* with proviso to Section 437 Cr.P.C., 1973. In this regard, it would be apposite to refer herein to a judgment passed by this Court on 14.03.2024 in CRM-M-11503-2024 titled as '**Ravinder Kaur Vs. State of Punjab**' (dealing with proviso to Section 437 Cr.P.C.), relevant thereof reads as under:

*"It would be apposite to refer herein to the dicta of a judgment of the Hon'ble Supreme Court in a case of '**Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., 2022(10) SCC 51**', which held as under:*

51. Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offenses are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

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58. Section 437 of the Code empowers the Magistrate to deal with all the offenses while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be. The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances contained therein. What is required is the consideration per se by the court of this proviso among other factors.”

As per the custody certificate dated 17.02.2025 filed by the learned State counsel, the petitioner has suffered incarceration for more than 06 months & is not shown to be involved in any other case. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent herself on any date before the trial.



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- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit her passport, if any, with the trial Court.
- (vi) The petitioner shall give her cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change her cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

18.02.2025
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No