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

Sr. No.222

**CRM-M-9103-2025 (O&M)
Date of decision : 06.03.2025**

Ravi @ Ravi Yadav

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. S.K. Yadav, Advocate, for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH, J. (Oral)

This is third petition for grant of regular bail to the petitioner in case FIR No.07 dated 06.02.2024, under Section 376-D IPC (offence under Section 328/34 IPC added later on), registered at Police Station WPS, Sector 51, District Gurugram.

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

'FIR No.007 dated 06.02.2024, registered under Section 376-D IPC at Police station Women Police Station Gurugaon, District Gurugram. "To, Mr. Deputy Commissioner of Police, District Gurugram, seeking appropriate legal action for the crime of sexual harassment committed against the complainant that the complainant namely Amisha Kumari D/o Mukesh Kumar Constable 1235 GGM, Police Station-Sadar, PCR Driver, Permanent Address V.P.O Karoli, Tehsil-Kosli, Distt. Rewari, Haryana, I am doing CA coaching in Sector 14 since last 2 years and I am living my life in great pain because of the sexual harassment has happened with me last year and to avoid any untoward incident in the family, I was not able to tell anyone about this incident. My friend harassed me a lot and in order to silence me, my friend revealed the incident to my father so that I could be sent home. My father asked me in detail about this incident and immediately asked me to take police action against the culprits. My father gave me courage upon which i was able to change my mind to end my life due to this heinous act that happened with me and suggested me to move a complaint about the incident. Sir, that i am disclosing

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about the incident that took place with me in detail last year that on, 6th April 2023 I, Amisha Kumari and Sakshi Yadav alias Smiley, the girl living in the room beside me who is currently living in Sector 15. she asked me and my room-mate (Anjali) to go to some party and told that after dancing and eating we would come back to PG soon. she said this again and again and put pressure on me and my friend, in this way she took us under her influence and she booked a cab and went to Sector 29 where her friend. Rakesh Dwivedi's party was going on. After that She made us consumed liquor or any intoxicant substance by saying that it does not contain alcohol. After that me and my friend insisted Sakshi to go to PG, on which she said that if we went to PG now, then the owner/people of PG will tell to our family that we have come so late. Thereafter she told me that she would take us to some safe place of her. Then she called some of her friends and took me and my friend to some farmhouse which i later came to know about. When I was in my drunken condition, i don't know where she has taken me and how many persons have done wrong act with me and she left for pg with her friend, leaving me with the persons. When I regained consciousness in the morning, those unknown persons threatened to kill me and my family and said that if I disclose to anyone about this incident, then they would viral nudes photos on the Internet and they dropped me at PG. because of this unbearable pain, i was in shock and was unable to tell anything about this incident to my family. Due to all these incidents, I was in depression and I tried to kill myself many times and tried to cut the veins of hand to die, due to which I am having 20-25 cut marks on my hand. When my father came to know about this incident then he sent me home and after some months, I remembered that one of my friend ria called me and disclosed that Sakshi Yadav is blackmailing them. Because he was busy therefore, I could not ask her anything in detail. Now when I talked to Riya, and came to know that Sakshi Yadav had conspired to involve her in her daily and mischievous work by luring her and telling lies. And now when my father came to know about all this, he was shocked and immediately asked me to take action against those persons and said that this should not be happen to any other girl. My father immediately took the matter seriously and tried to find out about those boys, then came to know that she took me in a club in sector 29 at that night she was with one boy namely KP and she called Ravi Yadav (Ushmapur) who is working at Hero Honda Chowk and Nikhil Yadav (Tikli), my father called KP after taking his number from Sakshi then KP gave numbers of above said boys, out of which the number of Nikhil is out of service and Ravi said that he doesn't want to meet and said that he would come when he would be called for legal proceedings. The mobile numbers which my father got are as under.: Sakshi Yadav

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@smiley-9354188913, KP-9520203749, Ravi Yadav - 8708992276, Nikhil Yadav- 8860414355, roommate Anjali- 8059218422. My father is having faith in law as well as yourself. with folded hands request that action should be taken against the above-mentioned accused persons and justice be given to the applicant.'

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He submits that there is a delay of nearly one year in lodging of the present FIR. He further contends that a perusal of the same reveals that in fact, the main allegations were against co-accused Sakshi Yadav for having administered some intoxicating drink to the victim. Even, from her statement recorded under Section 164 Cr.P.C., no specific allegations of rape against the petitioner are made out. It is further submitted that there is no medical evidence to corroborate the allegations so leveled against the petitioner, and also states that co-accused Nikhil Yadav has granted the concession of regular bail by a Coordinate Bench of this Court vide order dated 04.02.2025 (Annexure P7). Finally, the petitioner has undergone an actual custody of 11 months and 02 days and is not involved in other criminal case.

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 11 months and 02 days and there are 03 other criminal cases registered against him, but he is on bail in those cases. He on instructions from the concerned investigating officer submits that charges were framed on 22.03.2024 and

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out of a total of 19 prosecution witnesses, 05 witnesses have been examined till date. 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 bar since 04.04.2024. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and out of a total of 19 prosecution witnesses, 05 witnesses have been examined. The co-accused has already been granted concession of regular bail by a Coordinate Bench of this Court vide order dated 04.02.2025 (Annexure P7). 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 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:-

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- (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

06.03.2025

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No