



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-12728-2024 (O&M)

Date of decision: 27.03.2025

JAYANT SARKAR

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Shikhar Goel, Advocate
for the petitioner (Through VC).

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH. J.(Oral)

The jurisdiction of this Court under Section 439 Cr.P.C has been invoked for grant of regular bail to the petitioner in case FIR No.49 dated 04.02.2023, under Sections 4 and 10 of POCSO Act and 363 and 366 of IPC, 1860 registered at Police Station Dabua, District Faridabad.

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

“To, Shri Manya SHO Saheb Police Station Dabua Faridabad. It is requested that I Arjun Yadav s/o Ayodhya Prasad Yadav resident of village Punpur Pur Post Office Maharaj Pur Tesil Kunda Pargana Bihar District Pratapgarh Uttar Pradesh Hall tenanted house NO. 721 Block Street N06 Dabua Colony. I am a resident of Faridabad. I have four children. Of these, the second girl, Preeti Yadav, 15 years old, went away from home without informing at around 9 am on 3/2/2023. Who is wearing a blue bank shirt, blue pants and a blue sweater while leaving home. Whose appearance is as follows: Dark complexion, round face, strong body, height is 4.7 inches. I suspect



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that some unknown person has kidnapped him. Till now I have been searching for him on my own, but I have not found him and I have come to the police station till now. Please register an FIR and go to his old age. Applicant Arjun Yadav M.N. 8527035-404 Aaj police station today I am P/SI present at police station that Mr. Arjun Yadav son of Mr. Ayodhya Prasad resident of village Dhundharkipur tehsil Kunda Pargana Bihar, district Pratapgarh Uttar Pradesh, hall tenant house number 721 E block street no Dabua Colony Faridabad came to present police station. After meeting P/SI, submit the above written application presented, which is a serious crime punishable under section 363 of the Indian Penal Code. Case No. 49 dated 04.02.2023 Section 363 IPC was registered against the person found to be incarcerated After registering at Police Station Dabua, Faridabad, copies of the First Information Report are being prepared by computer as per rules and are being sent to the service of Special Report Special Constable Naveen Kumar No. 03172, Area Magistrate and concerned officer. I am in search of missing girl Preeti, P/SI, I am from the police station and complex area of Faridabad.”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He further submits that there are numerous discrepancies in the FIR and in the statements of the prosecutrix and that during the course of trial, the prosecutrix was declared hostile. He further submits that as per the medical evidence, no external injury was found on the person of the prosecutrix. The petitioner has undergone a long custody of 02 years, 01 month and 10 days and there is no other case registered against the petitioner.

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



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certificate, the petitioner has undergone an actual custody of 02 years, 01 month and 10 days and there is no other case registered against the petitioner. He on instructions submits that charges were framed on 06.07.2023 and out of a total of 19 prosecution witnesses, only three have been examined till date. However, given the grave allegations against the petitioner, he does not deserve the concession of bail.

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 16.02.2023. 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 19 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.

27.03.2025
amandeep

(KIRTI SINGH)
JUDGE

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