

2025:PHHC:060925



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

Sr. No.220

**CRM-M-11802-2025 (O&M)
Date of decision : 08.05.2025**

Joginder Singh @ Babbi

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Dinesh Kumar, Advocate and
Mr. Rajan Gupta, Advocate, for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) has been invoked for grant of regular bail to the petitioner in case FIR No.0008 dated 31.01.2024 under Sections 376-D & 506 IPC, registered at Police Station Nihal Singh Wala, District Moga.

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

“Stated that I am a resident of above mentioned address and now doing domestic work. That I was staying with my parents for about 6 months at the house of Joginder Singh @ Babbi S/O Harbans Singh resident of Nihal Singh Wala on rent because my father Gora Singh had some dispute regarding land property with his father Sadhu Singh. That the said Joginder Singh had started harassing me for about 15 days while I was staying on rent and used to scare me and my family by referring to his acquaintance and friendship with the policemen. Due to which I got scared and started talking to him after which he said that I will get you a job in the Institute and on this pretext

2025:PHHC:060925



he took me to Hotel at Moga and there he had physical relations with me without my consent. After that, the said Joginder Singh @ Babbi kept taking me to different hotels on the pretext of interviewing or getting a job, due to which I became pregnant in the month of December, when I told Joginder Singh @ Babbi about my pregnancy then on 25th of December, he took his friend Mohan Sharma with him along with me and he went to his native village to the house of his relative, where the said Joginder Singh @ Babbi and Mohan Sharma took turns having sexual relations with me without my consent and then and after above, the said Joginder Singh @ Bambi given me medicine for abortion on 30/12/2023 due to which I became very sick due to taking medicine and remained sick for about 15 days and my child aborted due to taking medicine. After that on 27th January, the said Joginder Singh's birthday, on that day the said Joginder Singh forcibly took me out of the room and started asking me to join the birthday party and his friends in front of my parents and the said Joginder Singh's wife started saying bhabhi bhabhi on which my father got angry, then all of them started beating me and my parents. On which I made a complaint on 112 helpline number, on which the police officer came and rescued us and called my mother's parents at Bhagike and handed us over to them after which I in the presence of police officials and my mother's parents told them about having sexual relations with me without me consent by Joginder Singh @ babbi and his friend Mohana Sharma. Now, when I have recovered a little, today, I was coming to the police station with my father, Gora Singh then you met us at Dhudkot Madheke Chowk where I depose my above statement to you. Please take necessary action against both above Joginder Singh @ Babbi S/o Harbans Singh and Mohana Sharma whose father's name I don't know who are in the police department and to give me justice. Claimant SD/-

2025:PHHC:060925



Sukhpreet Kaur. The said statement is correct Sd/- Gora Singh S/O Sadhu Singh, Attested SD/ Manpreet Kaur ASI Thana Nihal Singh Wala Date 31/1/2024”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. He further submits that there is no medical report to substantiate the allegations that has been leveled against the petitioner and the FSL report is also negative. He also submits that the co-accused were found innocent during investigation and Section 376-D was deleted. The petitioner has undergone an actual custody of 09 months and 13 days and is not involved in any other criminal case.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. She states that the petitioner was actively involved in the commission of the offence. She 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 09 months and 13 days and there is no any other criminal case registered against him. She on instructions from HC-Sikander Singh submits that charges were framed on 30.09.2024 and out of a total of 16 prosecution witnesses, 07 witnesses have been examined till date and 01 is given up. She also supplied a copy of FSL report dated 17.04.2025 in Court, however, the said report is negative. She 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.

2025:PHHC:060925



6. On a perusal of the case in hand, it transpires that the petitioner is behind the bar since 23.07.2024. 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 as out of 16 prosecution witnesses, only 07 witnesses have been examined so far and 01 is given up. The petitioner has undergone an actual custody of 09 months and 13 days and there is no any other criminal case registered against him. FSL report dated 17.04.2025 report is negative. 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 violative 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:-

- (I) The petitioner will not tamper with the evidence during the trial.
- (II) The petitioner will not pressurize/intimidate the prosecution witness(s).

2025:PHHC:060925



(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

08.05.2025

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No