



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

108+216

**CRM-M-11991-2025(O&M)
Decided on : 28.05.2025**

SHIVA

. . . Petitioner(s)

Versus

STATE OF HARYANA

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Anil Kumar Malik, Advocate
for the petitioner(s).

Ms. Mahima Yashpal, DAG, Haryana.

KIRTI SINGH, J. (Oral)

CRM-22713-2025

This an application under Section 528 of BNSS for placing on record the Annexures P-3 to Annexure P-6.

2. Heard. For the reasons mentioned in the application, the same is allowed and Annexures P-3 to P-6 are taken on record subject to all just exceptions.

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The jurisdiction of this Court under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.461 dated 20.07.2024 under Sections 64, 74, 79, 3(5) of BNS and Section 10 of POCSO Act, registered at Police Station Chandni Bhag, District Panipat.

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

“It is submitted that Nasima W/o Kamaldeen R/o village Ugrakheri and having two daughters. Elder daughter is xxxx aged 20 years. At about two months, Azad Malik @ santi R/o Ugrakheri Panipat, who used to misbehave with her elder daughter, due to fear, She had sent her elder



daughter tamana to her relative. Now, Azad malik, whenever her daughter met in the way, he teases to her younger daughter Marjina. On 19.07.2024, at about 9.30 PM, Azad came at our house. He said to her daughter Marjina that either you should call to her elder sister xxx. she does not come. Then he will wrong act with her. When her daughter raised alarm, then Azad malik threaten to her fled away from the spot. Earliar Azad malik had forcibly taken away her elder daughter xxxx fifteen day ago and committed rape with her. Due to fear, they could not taken legal action. Now she requested strict legal action should be taken against Azad Malik. My younger daughter aged is 28.07.2027. The boy who, our house has been destructed(Tod Fod ki) i.e Azad Sadi, other boy name is Shiva D/o Dilbag.”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated on the disclosure statement of the co-accused in the present case which has been instituted on the statement of the father of the prosecutrix. It is submitted that there is no evidence on record to point out towards the commission of any offence by the petitioner. In fact it is only the co-accused on whom allegations of having physical relations with the prosecutrix were levelled. It is the further submission that the material witnesses, namely the victim and the complainant, resiled from their previous statements while appearing before the trial Court as prosecution witnesses and did not support the case of the prosecution. He further submits that the petitioner has undergone an actual custody of 08 months and 11 days and there is one other case registered against him in which he is on bail.

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. Learned State counsel seeks to place on record custody certificate in Court, which is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 08 months and 11 days and there is one other case registered against him in which he is on bail. She on instructions submits that charges were framed on 21.11.2024 and out of a total of 15 prosecution witnesses, only four have



been examined till date.

5. Heard the rival submissions made by learned counsel for the parties.

6. 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 17.09.2024. The material witnesses have been examined and have turned hostile. 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 15 prosecution witnesses cited, four stand 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 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).
- (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

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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.

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 application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

28.05.2025

Kavita

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