



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

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**CRM-M-13143-2025(O&M)
Decided on: 19.08.2025**

AJAY

. . . Petitioner(s)

Versus

STATE OF HARYANA & ANR.

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

Mr. Hemant Hans, Advocate for respondent No.2.

KIRTI SINGH, J. (Oral)

1. This is third petition filed under Section 439 Cr.P.C. read with Section 483 of BNSS for grant of regular bail to the petitioner in case FIR No.454 dated 01.12.2022, under Sections 201, 323, 328, 452, 506, 354-C, 377, 376(2)(n) of IPC and Section 6 of POCSO Act, 2012, registered at Police Station Sector-14, District Panchkula.
2. The first two petitions were dismissed as withdrawn on 09.07.2024 and 14.01.2025 respectively.
3. The contents of the aforesaid FIR are reproduced herein below:-

“To, Station House Officer Sector 16, Panchkula Haryana. Subject Complaint against Ajay Shilla son of Sh. Jagdish Rai local address not known permanent resident of H. No. 447, Neem Road Kharimpur, Dhani Kherampur, Hisar, Haryana, for kula aggravated penetrative sexual assault, Rape, unnatural sexual intercourse, forcible oral sex, threatening to kill, criminal intimidation. Sir, It is most respectfully submitted that I, Yxxx (Name withheld) aged 16 years daughter of Sh. Sunil Kumar residing at H.No. 838-A, First floor, Sector 16, Panchkula, Haryana. My father and mother both are working and I am a student of class 10th in the Sacred Heart School. My date of birth certificate, school identity card and Aadhar card are attached with the complaint. My mother and father both are working individuals and remain out of house throughout the day and usually return to home only in the evening.. One of cousin brother of my mother namely Ajay has been continuously subjecting me to aggravated penetrative sexual assault, rape, unnatural sexual intercourse, forcible oral sex since the month of May 2022. Ajay is my maternal uncle in relation and he has abused his fiduciary



relation with my mother and exploited me using his position. The first such incident took place on 24th of April 2022 when Ajay came to my house around 3:00 PM after I came back from my school. Ajay already knew about my school timings and the factum that my parents remain out of house and during the period from 3:00 PM to 4:00 PM nobody is present in my house except for me and my brother. Taking advantage of the circumstances Ajay first came to my house on 24th of May and he being my maternal-uncle, I let him come inside the house. My brother was sleeping that time. Ajay offered me chocolate to eat and after eating the same I started to turn sub-conscious but I did not actually faint. Ajay took me to the room and forcibly undressed me and committed forcible sexual intercourse with me once. He also recorded the incidence in his mobile phone. After performing forcible sexual intercourse, he took me to shower and told me to shower. Ajay then threatened me not to disclose the incident to anyone as he is having my nude video and he will make the said video viral on the internet especially to amongst the children of my school. Later-on I came to know that the chocolate given by Ajay was laced with sedative substance. In the end of May 2022 Ajay again visited my house at about 3:00 PM after I was back from my school and asked me to make a call on my mother's phone and to tell her that I have come back from school and that I am fine. Thereafter, he forcibly removed my clothes and again committed forcible sexual intercourse and also made me perform forcible oral sex. He used my video tape recorded him as leverage and I was traumatized to my core thinking of the consequences of said video being made viral. I resisted his approach but he held me by my face and punched me on my chest and stomach and told me that he will subject me utmost torture i I ever tried to resist his approach. After performing forcible sexual intercourse and forcible oral sex he pushed me to the washroom and made me shower. In the month of July my teacher from the Allen institute called my parents and informed them about the changes in my behaviour and that I could not focus on studies. Ajay again came in the end of month of August through the bedroom door and committed forcible sexual intercourse and also performed oral sex and while performing oral sex he bit me on my vulva which resulted into swelling on my private part and caused pain for several days. Ajay slapped me and used to bite me on my arms shoulders and chest. The acts of forcible sexual intercourse and forcible oral sex grew in their violent veracity every single time. The same acts were repeated between 28-30th September by Ajay. The acts were then again repeated in the month of October during 10th to 20th October wherein Ajay did it for 3-4 times in these intervening days. The acts were repeated again on 17th and 18th November. During this time, I was on my menstrual cycle and I begged Ajay not to indulge in any such untowardly act as I am suffering severe trauma due to his unwanted and violent forcible sexual aggressions, to which he did not pay any heed. He performed forcible unnatural sex on these two occasions when I was on my menstrual cycle. My class teacher Harleen in the school also noticed the changes in my behaviour which were actually due to trauma I was going through as a result of these forcible and untowardly sexual acts. She also mentioned about the same to my parents in the parent teacher meeting. My mother had also asked me whether everything was fine or if I was having any problem but I could not utter a single word to her as I was scared of the consequences of the threatening which Ajay has extended to me. On 24th of November, after school, I returned home, the door was not locked, he entered directly. I tried to talk to Ajay, I begged to stop such brutal treatment but instead of paying any heed he hit me and pulled me by my hairs. He grabbed my neck and choked me. I was scared that he would kill me, there and then, so I had to agree to whatever he said. He took me to the other room, locked the door, forcibly undressed me; pushed me to wall, with my back facing him and my face rubbing against the wall. Then he started penetrating from behind, while it was happening, he slapped me, pulled my hair bit me and I was crying in sobs. When he was done, he told me to shower and left. After the incident I called one of my friends namely Ishita Chhikara and told her the entire set of events to which she calmly listened and advised me to disclose the same to my parents as ultimately my parents are going to find a solution to the same. On 25 of November 2022, I was alone in my house. It was approximately 10:00 AM when I heard the knocking on door by Ajay, but I did not open as I was scared to hell and the torture which Ajay subjects me sexually. He shouted and threatened me to open the door and also threatened me of dire consequences. I did not open the door and Ajay broke the side glass near the door and opened the door. When he had entered the house and was about to undress me my mother came to house as she had probably forgotten something. Ajay ran on knowing that my mother is coming towards the room. My mother on seeing Ajay running came hurriedly to



me and asked me to tell her. As I was already traumatized it took me sometime to figure out the reality and then I narrated the event to my mother and the reason why Ajay has come to the house. I was traumatized to such an extent that it took me some time to disclose the entire set of events as the incidents of repeated forcible sexual, oral and unnatural intercourse has left me devastated physically and mentally and telling everything over again triggers the same pain and agony. It took me time till today to actually tell the entire things to my mother and my father. Ajay has subjected me to utmost level of physical and mental torture and has ravished me repeatedly over the time as has been described in the preceding lines. The violent forcible sexual acts have taken off my chastity and have inflicted serious scars on my mentality. Ajay has done all these acts of forcible sexual, oral and unnatural intercourse intentionally to satisfy his lust and has put me under threat and has also subjected me to physical torture while committing such acts of sexual violence. The bite marks are still visible on my body parts which he has inflicted on my body while subjecting me to sexual violence. All the acts of sexual aggression are intentional on his part and have been committed to satisfy his lust. Ajay has also exploited his position of trust as he is in fiduciary relationship and has thereby committed the most heinous of the crimes and be punished as such accordingly. The call records are there with me to corroborate all the instances and I can readily provide the same to you as and when required by you. All these incidents have been committed in a premeditated manner as Ajay was aware of the timings of all the family members and majority of the incidents have been committed between 3:00-4:00 PM during the day time. He also used to make me call on my mother's number to tell her that I have reached home and am fine and the relevant call records could be matched. In view of the facts detailed above it would be seen that Ajay has committed aggravated penetrative sexual assault, Rape, unnatural sexual intercourse, forcible oral sex, threatening to kill, criminal intimidation in premeditated manner with the requisite intention and a FIR may kindly be registered against Ajay under POCSO Act. Necessary legal action against the culprit may kindly be taken in accordance with the relevant provisions of law".

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of the statement made by the prosecutrix. It is contended that the instant FIR was lodged after a delay of 06 days. Further, the allegations levelled against the petitioner are also without any substance, neither is there any direct evidence, including medical or forensic, which proves the complicity of the petitioner. Learned counsel submits that the allegations against the petitioner are contended questions of fact. Even otherwise, at the stage of grant of bail, a roving enquiry into the evidence is not to be made. It is submitted that the petitioner is in custody since 17.06.2023, and has already faced a prolonged incarceration for a period of 02 years, 02 months and 02 days till date; and there is no other case registered against him. Reliance is placed on the judgment of the Hon'ble Supreme Court passed in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation and Anr., Misc. Application No.1849 of 2021, decided on 11.07.2022***, wherein while reiterating the principle that bail is the rule and jail an exception, it was



observed that jails in India are flooded with under-trials.

5. *Per contra* learned counsel for the respondent No.2 and learned State counsel has opposed the bail and submits that the petitioner was actively involved in the commission of the alleged offence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 02 years, 02 months and 02 days and there is no other case registered against him. He on instructions, submits that charges were framed on 18.10.2023 and out of total of 26 prosecution witnesses, 06 witnesses have been examined till date. He, however, submits that in view of the serious allegations against the petitioner, petitioner is not entitled to the concession of regular bail.

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

7. From a perusal of the case in hand, it transpires that the petitioner is behind the bars since 18.10.2023. 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 charges were framed on 21.08.2024 and out of a total of 26 prosecution witnesses, only 06 witnesses have been examined till date. The material witnesses stand examined. 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.



8. The grant of bail is warrants drawing a delicate balance of competing legal and societal interests. It is settled law that personal liberty of an individual, a cherished constitutional guarantee, cannot be taken away except in accordance with the procedure established by law. A person accused of committing non-bailable offences can be detained in custody during the pendency of the trial, unless enlarged on bail. However, exercising judicial discretion in bail matters, Courts must be guided by a calibrated assessment of factors such as the nature and gravity of the offence so alleged, the strength of the prima facie case, the likelihood of the accused fleeing justice, tampering with evidence or influencing witnesses, and the overarching interest in ensuring that the trial proceeds fairly and without obstruction.

9. Accordingly, 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 she 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/her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

10. 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.

11. 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.

12. Meanwhile, learned trial Court is encouraged to conclude the trial expeditiously.

13. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

19.08.2025
Kavita

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