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

Sr. No.216

**CRM-M-17878-2025(O&M)
Date of decision : 19.05.2025**

Rinku

..... Petitioner

VERSUS

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Balraj Gujjar, Advocate, for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

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.428 dated 20.10.2024 under Sections 64(1) and 127(2) of BNSS, 2023 registered at Police Station Kotwali, Faridabad, District Faridabad.

2. The contents of the FIR is reproduced below:-

“On 20.10.2024, 1 Sunita @ Poojaw/o Kishan Pal Tenant is resident of Parvatiya colony near Nala, street no.1 fourth house near Disposal Chowk Faridabad has come present at police station. I got my statement recorded before legal Aid Hemlata Singh the content of which is as under: That 1 Sunita @ Pooja, aged 35 years, w/o Kishan Pal Tenant is resident of Parvatiya colony near Nala, street no.1 fourth house near Disposal Chowk Faridabad, Mob. No.9711745141, 7827478545 has stated that I am resident of above mentioned address. I do work of cleaning. I have two kids. I am married to Kishan Pal. I am second wife of Kishan Pal. Kishan Pal have two kids from his first wife. There is alteration between me and my husband Kishan Pal for kids. I am staying separately from my husband for last

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about two months. When I came to Faridabad about 5-6 months ago, then my husband Kishan Pal got me a separate house on rent. My husband is staying on rent in the house of Rinku in Dabour Colony Faridabad along with kids. Rinku is my facebook friend, we came to know about each other mobile no through facebook messages and Rinku talked to me on mobile. Rinku called me on 19/10/2024 at around 7-8am at pavali chowk, after 1 hour 30 minutes Rinku took me on scooty to his rented house at NIT Faridabad and served me cold drink mixed with alcohol and after sometime I got intoxicated and Rinku made physical relation with me in that intoxicated state and then Rinku locked me in room and went out. He came back after sometime and Rinku made unnatural relation with me and then dropped me around 7-8 pm at Payali Chowk. I fell asleep near a footpath in an intoxicated state. As soon as I regained consciousness, I called my husband and asked him to come to me. My husband called police at 112 Rinku has done wrong with me. Strict legal action should be taken against him. I am giving the statement without any pressure or greed.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case on the statement of the prosecutrix, who was residing as a tenant with her husband in the petitioner’s house. It is stated that the petitioner and the prosecutrix, though already married to their respective partners, were in a consensual relationship from the past two years, to substantiate which submission, reliance is placed upon the hotel record annexed as Annexure P2. Further, there is no evidence, including medical, on record to prove the veracity of the allegations leveled against the petitioner. He submits that the petitioner has undergone an actual custody of 06 months and 24 days and is not involved in any other criminal case.

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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 06 months and 24 days and there is no any other criminal case registered against him. He on instructions from the concerned investigating officer submits that charges were framed 13.05.2024 and out of a total of 20 prosecution witnesses, none has been examined till date. He 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. On a perusal of the case in hand, it transpires that the petitioner is behind the bar since 23.10.2024. 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 20 prosecution witnesses, none has been examined so far. 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.***

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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 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

19.05.2025

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No