

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

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**CRM-M-18215-2025(O&M)
Decided on : 08.04.2025**

RAHUL ALIAS RAHUL KUSHWAHA

. . . Petitioner(s)

Versus

STATE OF HARYANA

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Dharamvir Sharma, Advocate
for the petitioner(s).

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

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.84 dated 02.03.2024 under Section 346 IPC {which was later replaced with charges punishable under Section 6 of POCSO Act, 2012 and under Sections 376(2)(n), 376(3), 363 and 366 IPC}, registered at Police Station Sector 56, Gurugram, District Gurugram.

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

“To, the SHO, Police Station Sector 56, Gurugram, Sir, it is requested that I; Ganesh Basor son of Mahadev Basor, am resident of Village Kundlya, Police Station Bhagwa Bazar, Patti, District Chhatarpur [MP], at present resident of Village Tigra, Sector 27, Gurugram as a tenant. I have seven children, out of which 5 are girls and 2 are boys. On 01.03.2024, at around 8 am in the morning, my third number daughter named Kajal, aged around 18 years, who wore a pink jacket and pant, had sandal on her feet, has a black mark on the thumb of her left hand, went away from the rented house situated at Village Tigra Sector 57 Gurugram without informing me. Please take legal action and search for my daughter.”



3. Learned counsel for the petitioner submits that the present FIR was initially lodged, to report the missing of the prosecutrix, by her father and that the petitioner has been falsely implicated in the present case. He further submits that in her statement recorded under Section 164 Cr.P.C., the prosecutrix has not levelled any allegations against the petitioner. Further, both the prosecutrix and her father (complainant) have turned hostile during the course of trial. He further submits that the petitioner has undergone an actual custody of 11 months and 03 days and there is no other case registered against him.

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 certificate, the petitioner has undergone an actual custody of 11 months and 03 days and there is no other case registered against him. He on instructions submits that charges were framed on 31.07.2024 and out of a total of 23 prosecution witnesses, only two have 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. However, the factum of the prosecutrix and the complainant having been declared as hostile is not disputed.

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 05.05.2024. The complainant have turned hostile during the course of trial. 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 23 prosecution witnesses, only two have 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.

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 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

08.04.2025

Kavita Nain

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