



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

CRM-M-18534-2025 (O&M)

Date of Decision:-13.05.2025

Jodha masih @ Yodha Masih

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Ritesh Pandey, Advocate for the petitioner.

Mr. M.S. Bedi, Advocate General, Punjab, assisted with
Mr. Sahil Chowdhary, AAG, Punjab.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Section 483 of BNSS, 2023, for grant of regular bail to the petitioner in case bearing FIR No.118 dated 25.11.2012 under Sections 509 and 506 of IPC (Section 12 of POCSO Act added later on), registered at Police Ghanie Ke Bangar, District Batala (Gurdaspur).

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner has been in custody since 18.02.2015. He submitted that initially, the FIR was registered against the petitioner under Sections 506 and 509 of the IPC and he was granted police bail. It was thereafter, by way of an entry in DDR through Zimni No. 13 dated 17.02.2025 that Section 12 of the POCSO Act was added and in this way the offence has been enhanced. He further submitted that on the next day, the petitioner was arrested. Learned counsel referred to the judgment of the Hon'ble Supreme Court in the case of *Pradeep Ram v. State of Jharkhand and Another, 2019 (RCR Criminal)*



538, to contend that once the accused is on bail and if there is any enhancement or addition of an offence, then the proper course to be adopted by the police is to make an appropriate application before the concerned Court and seek permission for the arrest of the accused. In the present case, the petitioner was already on police bail, but he was arrested without seeking any permission from the concerned Court and therefore, his arrest is illegal and in view of the aforesaid facts and circumstances, the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr. M.S. Bedi, learned Advocate General, Punjab, assisted by Mr. Sahil Chowdhary, AAG, Punjab, submitted that, insofar as the custody of the petitioner is concerned, the same is correct. It is also correct that the petitioner was earlier granted police bail under Sections 506 and 509 of the IPC, and that Section 12 of the POCSO Act was subsequently added. However, neither any application was filed before the concerned Court, nor any permission was obtained in this regard. He submitted that although the Deputy Superintendent of Police (DSP), who filed the reply on behalf of the respondent-State, had reproduced the order dated 09.04.2025 passed by this Court but there is nothing so stated in the reply specifically with regard to any permission being sought or granted but according to his instructions, no such permission was granted by the Court

4. After hearing learned counsels for the parties, this Court is of the considered view that the case of the petitioner is squarely covered by the aforesaid judgment of the Hon'ble Supreme Court in ***Pradeep Ram's case (supra)***. Once the petitioner was granted police bail and an additional offence



was added thereafter, the appropriate course for the respondent-State was to follow the law laid down by the Hon'ble Supreme Court in the said judgment.

5. In view of the above, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

6. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

7. Miscellaneous application(s), if any, shall also stand disposed of.

(JASGURPREET SINGH PURI)
JUDGE

13.05.2025

shweta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No