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

Sr. No.223

CRM-M-18953-2025 (O&M)
Date of decision : 21.04.2025

Lavi

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Sanyam Khetarpal, Advocate, for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

This is a second petition filed under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) for grant of regular bail to the petitioner in case FIR No.130 dated 29.09.2022, under Sections 363, 342, 506 & 366 IPC and Sections 4 & 6 of POCSO Act, 2012, registered at Police Station Bhupani Faridabad, District Faridabad.

2. The first petition was dismissed as withdrawn vide order dated 07.08.2024.

3. The contents of the present FIR is reproduced below:-

'To respected SHO Sir, Police Station Bhupani, Faridabad, request I, Sanjay Kumar Rai son of Paremeshwar Rai, resident of behind G.D. Gonyika School, Village Deha Bhupani, Police Station Bhupani, Faridabad, am living there. I have two children, one boy and one girl. My younger daughter, Kumari age 15 years, studies in class 8th in Government School, Sector 28. On 28.09.2022, my daughter had a school holiday, and my wife and I had gone to work. When I returned home at around 1 PM for lunch, the door was locked from outside, and

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when I went inside, my daughter was not at home. I searched here and there, with her friends and in my relatives' places, but till now, I could not find any information about her. My daughter Sweta has left home without informing us. I request you to search for my daughter Sweta, whose description is as follows: wheatish complexion round face normal physique, height 4 feet 10 inches, age 15 years. She was wearing yellow pajama and a light pink top. She was wearing slippers on her feet.'

4. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case and that no allegations were specifically leveled against him in the FIR. He further submits that during the course of trial, the prosecutrix as well as the complainant-father did not supported the case and resiled from their statements, which is evincible from their cross-examination, copies of which are annexed as Annexure P3. He also submits that the petitioner has undergone an actual custody of 02 years, 06 months and 18 days and is not involved in other criminal case.

5. *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 02 years, 06 months and 18 days and there is no other criminal case registered against him. He on instructions from the concerned investigating officer submits that charges were framed on 31.03.2023 and out of a total of 25 prosecution witnesses, 02 witnesses have been examined till date. He

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submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail. However, he does not dispute the fact that the material prosecution witnesses i.e. the complainant and the prosecutrix have not supported the case during their cross examination.

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

7. A perusal of the case in hand transpires that the petitioner is behind the bar since 01.10.2022. 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 25 prosecution witnesses, only 02 witnesses have been examined so far. The prosecutrix as well as the complainant-father have not supported the case and have resiled from their statements during the cross-examination. 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. 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:-

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- (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.
9. 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.
10. 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

21.04.2025

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No