



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

105+226

**CRM-M-19457-2025(O&M)
Decided on : 26.05.2025**

GAURAV PAHAL @ KALA

. . . Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Rajesh Gupta, Advocate
for the petitioner(s).

Mr. Anmol Malik, DAG, Haryana.

Mr. Rahul Vijay Singh Chugh, Advocate
for respondents No.2 & 3.

KIRTI SINGH, J. (Oral)

CRM-22320-2025

This is an application for placing on record Annexures P-5 to P-7 and for exemption from filing certified and true typed copies thereof.

2. Heard. For the reasons mentioned in the application, the same is allowed and Annexures P-5 to P-7 are taken on record subject to all just exceptions. Exemption sought for is granted.

CRM-M-19457-2025(O&M)

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.0464 dated 03.11.2024 under Sections 140(3) and 351(2) of BNS and Section 12 of POCSO Act, registered at Police Station Gannaur, District Sonipat.



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

“To S.H.O Sir, Police Station Ganaur, Sir, it is requested that I, Narendra son of late. Shri Ramkumar is a resident of Khedi Road, Gandhi Nagar, Ganaur. I have two daughters and a son. The elder daughter xxxxx is around 15 years old, whose date of birth is 16/10/2009, who studies in 10th Class in xxxxx SCHOOL, Khedi Road, Gandhi Nagar, Ganaur, who was going for tuition to Koshik Garden on 29/10/24 at around 4-30 PM. On the same day, Gaurav, a boy from our colony, stopped near my daughter at Koshik Garden in his Bolero car and said, come in my car. When xxxxx refused, the boy forcibly made her sit in the car and took her some distance away. The boy behaved indecently with xxxxx, asked her to do friendship with him and started doing bad things and when xxxxx started shouting, Gaurav started telling xxxxx that if you tell this to anyone, I will kill you and your family. He after putting down xxxxx there went away. Later xxxxx came home crying and told everything to her mother. I was out of the house for some work that day. I returned home at night I see my wife sad, on asking she said I will tell you after festival of Diwali. Then on asking why all are sad, then on 1.11.2024, my wife Meenakshi and daughter xxxxx told me all the above things to me. Due to it being night time, I could not come to Gaurav's house or the police station. On 2/11/24, I went to Gaurav Pehal's house and told everything to Gaurav's mother and grandfather. Then they called Gaurav Pehal and asked why did you do this. Gaurav said that I will identify by looking at the girl. Later, he came to my house in his Bolero car and on seeing xxxxx, he said I was not aware that she is your daughter. By saying if you told this thing to any one, I will kill you, he went. For the reason that social respect is not demolished, I felt not appropriate to visit police station immediately. From first night Gaurav giving threatening calls through others by different phones to me and my brother Mahesh by saying that I have many scoundrels and police officials in my family and one scoundrel Vicky is also from my family. I, my brother and my family have threat to life. Appropriate action be taken.”

3. 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 father of the prosecutrix. It is further submitted that even the material witness, i.e., the prosecutrix, who has already been examined as a prosecution witness, has turned hostile. Learned counsel also submits that the matter has now been amicably settled between the parties and places reliance on the compromise deed annexed as *Annexure P-2*. A petition seeking quashing of the FIR on the basis of the said compromise, bearing CRM-M-16565-2025, has already been filed, in which notice of motion has been issued. He further submits that the petitioner has undergone an actual custody of 05 months and 27 days and there are two other cases registered against him.

4. Learned counsel for the respondents No.2 & 3 has admitted the factum of compromise effected between the parties.



5. Learned State counsel has opposed the present petition, arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate in Court, which is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 05 months and 27 days and there are two other cases registered against him. He on instructions submits that charges were framed on 21.01.2025 and out of a total of 17 prosecution witnesses, only three have been examined till date. However, it is not controverted that the prosecutrix has turned hostile.

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

7. 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 28.11.2024. It is not in dispute that the material witness i.e. prosecutrix has been examined as prosecution witnesses and she has turned hostile. 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 cited, only three stand examined so far. Therefore, the trial in the present case will not conclude anytime soon. 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**



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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:-

- (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.

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 application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

26.05.2025

Kavita

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No