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

Sr. No.224

**CRM-M-20228-2025 (O&M)
Date of decision : 12.05.2025**

Bakshish Singh @ Sandeep

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Sidhant Vermani, Advocate, for the petitioner
Through video conferencing.

Ms. Aakanksha Gupta, AAG, Punjab.

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.166 dated 18.09.2024 under Sections 64(2) F and 351 (2) BNS, 2023 read with Section 6 of the POCSO Act, registered at Police Station Chheharta, Amritsar.

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

“Statement of Hema wife Sahin resident of Nepal at present Resident of House No. 2273 New Medical Enclave Circular Road Amritsar, aged around 42 years, mobile No. 83602-13721 stated that I am a resident of the said address and I works as a cook at the house of Jatinder Sharma son of Sr. Paramjit Sharma resident of 348-C Shastri Nagar Lawerance Road Amritsar. A girl Mansi aged 15-16 lives in Jatinder Sharma's house. Who told me that her father Guljar Singh has died. They are four brothers and sisters. Her mother Parveen lives with another man whose name is Bakhshis Singh alias Sandeep, who lives with her mother Parveen at Petrol Pump

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Wali Gali Naraingarh Chheharta. On 16-09-24 time around 7 o'clock in the evening his step father Bakshis Singh alias Sandeep took her with him to Naraingarh and in the night he did wrong with her and on 17.09.2024 he left Mansi at Jatinder Sharma's house at 7-8 in the morning. He had threatened that if she told anyone, he would kill her. I told all this to my employer Jatinder Sharma who asked about the girl Mansi. Jatinder Sharma has come to the police station today along with me along with the girl Mansi. I have written a statement. The girl Mansi has been treated badly by her step father by doing wrong thing. Legal action should be taken against him. I wrote the statement, heard, it is correct SD/- Hemma”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case on the statement of the complainant who is unrelated to the prosecutrix and her family. He submits that the prosecutrix has turned hostile during the course of trial. The FSL report is also negative. He further submits that the petitioner has undergone an actual custody of 07 months and 18 days and is not involved in any other criminal case.

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 07 months and 18 days and there is no any other criminal case registered against him. He, on instructions, submits that the charges were framed on 03.01.2025 and out of a total of 19 prosecution witnesses, 02 have been

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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. Further, he also submits that the FSL report is negative.

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 22.09.2024. 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 19 prosecution witnesses, only 02 witnesses have been examined so far. The victim has turned hostile during the course of trial and has not support the prosecution case. The FSL report is also negative. The petitioner has undergone an actual custody of 07 months and 18 days and is not involved in any other criminal case. The complainant has turned hostile during trial. 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

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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

12.05.2025

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No