



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

108+227

**CRM-M-22697-2025(O&M)
Decided on : 15.05.2025**

SWARAN SINGH ALIAS SUNNY

. . . Petitioner(s)

Versus

STATE OF PUNJAB AND ANOTHER

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Sukhveer S. Killianwali, Advocate
for the petitioner(s).

Mr. Luvinder Sofat, Sr. DAG, Punjab.

KIRTI SINGH, J. (Oral)

CRM-19374-2025

This is an application for amendment of the head note of the main petition.

Allowed as prayed for.

CRM-M-22697-2025(O&M)

The jurisdiction of this Court under Section 439 of Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.47 dated 27.03.2024 under Sections 376(c), 201 of IPC and Sections 3 and 4 of POCSO Act, registered at Police Station City Malout, District Sri Muktsar Sahib.

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

“Statement of xxxxx Daughter of xxxx, aged about 14 years, stated that I am a resident of the above said address and studying in Class No. 9th at Government School. On the date 5-1-2024, it would be around 8:30 in the morning that I was going to study on foot when I found my friend Sunny standing near the Iqbal doctor's shop. Who works at a vegetable shop in front of our Gharya Wali shop under the bridge (Malout City). Sunny told me that I drop you to school, so



I sat on Sunny's motorcycle. I sat on Sunny's motorcycle and went to Giddarbaha with him. Then Malout brought me back. Sunny took me to someone's house. Sunny gave them 500 rupees. Then he made me sit in the room and gave me tea. After that I was unconscious. When I regained consciousness, I was in the room and Sunny was standing outside. I told Sunny to leave me at home. Sunny dropped me at the place where he had taken me. I am sure that Sunny made me unconscious and had sexual relations with me, that's why I had a stomach ache for a long time. I have written a statement to you, read it and heard it."

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the statement of the prosecutrix. It is contended that there is a delay of 02 months and 22 days in registration of the FIR. Further, even the prosecutrix and her mother who have already been examined as prosecution witnesses, turned hostile and thus the trial is not likely to culminate into conviction. In which regard, reliance is placed on Annexures P-2 & P-3. He further submits that the petitioner has undergone an actual custody of 01 year, 01 month and 08 days and there is no other case registered against him.

4. 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 01 year, 01 month and 08 days and there is no other case registered against him. He on instructions submits that charges were framed on 11.06.2024 and out of a total of 23 prosecution witnesses, only three have been examined till date. However, it is not controverted that the prosecutrix and complainant have turned hostile.

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 05.04.2024 and there is no other case registered against him. It is not in dispute that the material witnesses i.e. prosecutrix and her mother have been examined as prosecution witnesses and they have 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 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

15.05.2025

Kavita

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