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

Sr. No.215

**CRM-M-23147-2025(O&M)
Date of decision : 06.05.2025**

Vikas

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Atul Ravish, Advocate, for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. (Section 483 of BNSS, 2023) has been invoked for grant of regular bail to the petitioner in case FIR No.456 dated 16.06.2024 under Section 6 of POCSO Act, 2012, later on charges framed under Sections 376-AB, 376(2)(f)(n) IPC and Sections 5(L)(m)(n)(p), punishable under Section 6 of POCSO Act, 2012, registered at Police Station Shahbad, District Kurukshetra.

2. The contents of complaint on the basis of which the FIR has been registered, is reproduced below:-

“To, the Incharge, Police Post, City Shahbad, R/Sir, it is requested to you that I Rajbala W/o Raj Kumar R/o Village Palanpur, Tehsil Bilari, Distt. Muradabad, UP, presently residing at Majri Mohalla Near Adhesh Hospital Tehsil Shahbdad, Distt. Kurukshetra. That I have four children i.e. two sons and two daughters. That I am working as a laborer. That today at around 8.00 PM, after doing the work when I returned home, then my daughter aged about 8 years told me while

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crying that Vikas, who is aged about 18- 19 years, son of my sister in law, came to our house in the afternoon, no one was present at house and committed wrong act with her. Thereafter, I inquired my son Ankit about the matter then he told me that in the afternoon, brother Vikas had sent him to bring sweet water from the street and when he returned, then he saw sister was crying. It is prayed to you that legal action be taken against Vikas S/o Badree R/o Shahbad.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case on the statement of the mother of the prosecutrix. Infact, it has been categorically stated by the prosecutrix in her statement recorded under Section 164 Cr.P.C. that the petitioner neither caused any injury to her nor did anything else. He further submits that the material witnesses have been examined. The prosecutrix and her mother (complainant) have not supported the prosecution case, and the complainant has been declared hostile. Copies of depositions are annexed as Annexure P2 and P3. The petitioner has undergone an actual custody of 10 months and 17 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 10 months and 17 days and there is no any other criminal case registered against him. He on instructions from the concerned investigating officer

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submits that charges has been framed on 29.08.2024 and out of a total of 13 prosecution witnesses, 07 witnesses have been 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. However, the fact that the complainant has turned hostile and that she and the prosecutrix have not supported the case of the prosecution, is not disputed.

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

6. A perusal of the case in hand transpires that the petitioner is behind the bar since 18.06.2024. 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 13 prosecution witnesses, 07 witnesses have been examined so far. The petitioner has undergone an actual custody of 10 months and 17 days and is not involved in any other criminal case. The material witnesses i.e. the complainant and the prosecutrix have been examined and they have not supported the case of the prosecution. 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.**

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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 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.

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

(KIRTI SINGH)
JUDGE

06.05.2025

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No