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

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**CRM-M-23925-2025(O&M)
Decided on: 08.05.2025**

Sanju @ Tanu Singh

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Naresh Kumar Chhokar, Advocate and
Mr. Ram Bhati, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

KIRTI SINGH, J. (Oral)

This petition under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) has been filed for grant of regular bail to the petitioner in case FIR No.588 dated 06.11.2021, under Sections 363, 366A and 34 of IPC (Section 6 of POCSO Act added later on), registered at Police Station Sector-58, District Faridabad.

2. The contents of the above-mentioned FIR are reproduced herein below:-

“ To the Police Post Incharge, Sikri, it is requested that I am Babu S/o Mansukh, R/o Sikri. My daughter namely Pooja aged 15 years, studies in 9th standard at Govt. School, Sikri. On 05.11.2021 at 7:00 am, she went to the market to get her books and did not retrace to home till now. We have searched her everywhere on our own basis, but still we are unable to find her. Hence, we are requested to register a case and search should be done. Pooja is wearing white and red printed Kurta and Blue Pajama and red leather sandals and yellow sweater. Appearance Complexion: Dark complexion, Tall Face, Thin Body, Height 4 ft 6 inch, mole on right cheek and age

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about 18 years. Applicant Sd/- Babu 84xxxxxx74 999xxxxx27 Dt. 06.11.2021”

3. Learned counsel appearing for the petitioner submits that petitioner is a young boy of 21 years of age and has been falsely implicated in this case on the statement of the father of the prosecutrix. The only allegations against the petitioner are that he helped the co-accused elope with the victim. He contends that the date of alleged occurrence is stated as 06.11.2021 and the prosecutrix was recovered and was medico-legally examined on 24.04.2022 and 25.04.2022, respectively. As per the final report filed under Section 173 Cr.P.C., the prosecutrix was produced before the doctor alongwith her mother where she denied to get herself medically examined regarding unnatural sex, and subsequently, during the course of investigation, offence under Section 377 IPC was deleted. It has also been argued that even after the filing of challan, the prosecutrix is not coming forward to appear before the learned Trial Court to record the statement despite a lapse of over two years. He submits that co-accused, namely Ajay Pandey Kumar has been granted regular bail vide order dated 05.03.2025 passed by this Court in CRM-M-33571-2024. The petitioner has undergone an actual custody of 03 years, 02 months and 25 days and there is no other case registered against him. Reliance has been placed upon the decision of Hon’ble Supreme Court in “***Deshraj @ Musa vs. State of Rajasthan and another***” (@SLP(CRL) No.11020/2024), dated 04.11.2024.

4. *Per contra* learned State counsel has opposed the bail and submits that the petitioner was actively involved in the commission of the offence. She has filed custody certificate and reply in Court today and the same are taken on record. As per custody certificate, the petitioner has

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undergone actual custody of 03 years, 02 months and 25 days and is not involved in any other criminal case. She on instructions from ASI-Pravesh submits that charges were framed on 13.12.2022 and out of total of 19 prosecution witnesses, 03 have been examined. She submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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 bars since 12.02.2022. 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 charges were framed on 13.12.2022 and out of total of 19 prosecution witnesses, only 03 have been examined. Co-accused, namely Ajay Pandey Kumar has been granted regular bail vide order dated 05.03.2025 passed by this Court in CRM-M-33571-2024. The petitioner has undergone an actual custody of 03 years, 02 months and 25 days and there is no other case registered against him. 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 violate 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. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for

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some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in “***Abdul Rehman Antulay and others v. R.S. Nayak and another***”, 1992(2) RCR (Criminal) 634 observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

8. Accordingly, 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 she 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/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

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proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

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

(KIRTI SINGH)
JUDGE

08.05.2025
Ramandeep Singh

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>