

2025:PHHC:096221



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

Sr. No.222

CRM-M-25069-2025 (O&M)
Date of decision : 30.07.2025

Atishaya Jain

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. P.S. Ahluwalia, Advocate and
Mr. Mayank Aggarwal, Advocate and
Ms. Bhavi Kapur, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) has been invoked for grant
of regular bail to the petitioner in case FIR No.41 dated 07.02.2025 under
Sections 4, 5 & 7 of Immoral Traffic (Prevention) Act and Section 143(3)
BNS, 2023 registered at Police Murthal, District Sonipat.

2. The contents of the FIR is reproduced below:-

*“Today, on dated 07.02.2025, Complaint number 231-
PMISC dated 05.02.2025, was received from the office of
Deputy Commissioner of Police East Sonipat in my office
Assistant Commissioner of Police, Murthal Sonipat for closure
of Prostitution shop The Reborn SPA Wellness, 3rd Floor, Mile
Stone, NH-44, Murthal, Sonipat against its owner Naveen Rana
(Mobile Nos. 9996858577, 9896736955). That for conducting
inquiry of above mentoinied complaint and for conducting raid
team was constituted in which A.S.I. Kishore 99/Murthal was
made Bogus customer in civil cloths and gave to currency notes
of Rs. 500/500 each bearing Nos. 9BA 394723 and 9BA*

2025:PHHC:096221



394724, initialled by me and as per instructions said bogus customer was sent to Spa Centre. As per plan after some time I along with fellow employees Lady S.I. Babli 1459/Sonipat, S.I. Mahabir 881/Sonipat A.S.I. Sandeep 40/Sonipat, Lady A.S.L. Menka286/Sonipat, Lady H.C. Jyoti 107/Sonipat, Lady C. Raman 2245/Sonipat, Lady C. Nisha 2367/Sonipat, C. Amit 543/Sonipat, boarding Government Vehicle Number HR 10GV 1600, driver of which is HKRN Rajesh Kumar) and another Government vehicle (Registration No. HR 10GV 4731, driver of which is HKRN Manoj Kumar) reached The Reborn SPA Wellness, 3rd Floor, 51 Mile Stone, Murthal, Sonipat. Where Advertisement pictures of Spa Centre massage were affixed in order to attract and excite the customers. That I gave my introduction and told my purpose to visit to a person sitting at the counter of The Reborn SPA Wellness. Upon asking his name he disclosed his name as Atishye Jain son of Ajay Jain R/o H. No. 698/23 Aggarwal Bhawan Gud Mandi Sonipat Aggarwal Bhawan Gur Mandi Sonipat. Out' team accompanied along Spa Centre operator Atishyejain with her team along with our team conducted checking of Rooms of Spa Centre, dring checking upon checking room number 5 in a room a person has been found in inner cloths with lady spa worker in an objectionable position upon asking his name and address he disclosed his name as Vinay son of Virender Son of Ram Singh Resident of Mehndipur, Sonipat. Apart from that three women were found waiting for the customers. In this Spa Centre there are total of Nine Rooms, in all these rooms facility of taking bath has been provided. After checking all the rooms upon checking the counter of Spa Centre a register labelled "Classmate SPIRAL NOTEBOOK LAXMI" was recovered, upon checking the register, on the second page of the Register record of entry of the customers dated 07.02.2025-was found in which at Serial No. 2 in room number 5 person found in an objectional

2025:PHHC:096221



condition above named Vinay and at serial Number 3 entry of bogus customer Kishore was found, then from the above named Atishye Jain himself produced cash amounting to Rs. 62,050 earned through Prostitution by counting him., that upon checking recovered currency notes, 112 notes of denomination of Rs. 500, 29 notes of Rs. 200, 2 notes of denomination of Rs. 100, and 1 note of denomination of Rs. 50 were found. Upon recovered currency notes have been initialled by me and two currency notes given to bogus customer Kishore of denomination of Rs. 500/500 bearing Number 9BA 394723 and 9BA 394724 have also been found. That separate parcels of recovered register and recovered currency notes initialled by me were prepared. And parcels were sealed with seal SD and recovered register and currency notes were taken into police custody as witness. Upon the memo accused and witnesses appended their respective signatures. Seal after use was handed over to S.I. Babli and in Spa Centre Sumit son of Ashok Gupta R/o Beyapur Khurd Sonipat (Manager of Spa Centre) and Sandeepson of Ramphal resident of Mehdipur, Murthal, Sonipat (spa centre worker) were also found present and three other women Spa workers were also found present in their rest room that upon conducting enquiry from the women by us in the presence of lady employees victim Spa Workers women told that we all women upon the asking of owner of Spa, use to come here for prostitution under our compulsion for earning bread and butter, we used to come here daily with the Spa operator and the operator of Spa use to took our documents and Mobile in his custody and then while going back use to return money per customer and our documents and phones to us. On the pretext of doing message while going into the Cabin it become our compulsion to do prostitution with the customer. In this prostitution the money which the Spa owner get, out of which he used to pay us Rs. 500/- per customer to us also and he used

2025:PHHC:096221



to keep balance of the money with him. At the spot since there was traffic of persons victim women were taken into custody under the supervision of lady employees, they shall be freed after conducting enquiry. That persons present at the spot Sachin son of Ramshakal Resident of Brahampur Police Station Brijmanganj District Maharanganj Himachal Pradesh, Mob. No. 7706063926, Sandeep son of Shyamlal Village Ucha Samana District Karnal, Mob. No. 9050336665 and Anil Kumar son of Partap Singh R/o Joginder Nagar District Mandi Himachal Pradesh, presently at Village Kurad, Mob. NO. 6230458589 were requested to become witness of the spot, that all of them while expressing their social compulsion expressed their inability to come witness. That present Sachin, Sandeep and Anil Kumar above named were given appropriate instructions upon need to come present and freed. That That above-named accused persons at public place under the garb of running Spa Centre in an illegal manner by taking advantage of helplessness of the ladies pushing them into immoral trafficking, so it is found that the crime is under sections 4,5,7 of the Immoral Traffic (Prevention) Act, 1956 and 143(3) BNS has been made out, so a written statement for registration of case is being sent by hand to Police Station through C. Amit 543/Sonipat to police station, after registering the case inform with the case number, a special report of the case may be sent for the kind perusal of senior officers. I am the complainant myself in the case, therefore, for further investigation of the case, another investigator may be appointed and sent to the spot. I am on the spot and am busy in investigation. Today - The Reborn SPA Wellness 3rd Floor 51 Milestone Murthal Sonipat, SD: AJEET SINGH HPS Assistant Commissioner of Police, Murthal, Sonipat date 7.2.2025.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. The petitioner is neither

2025:PHHC:096221



the owner of the SPA centre, nor was any specific allegation made or particular role attributed to the petitioner with respect to forcing or inducing the women workers into illegal activities. It is further submitted that the alleged search/raid on the SPA centre was conducted in contravention of the provisions of Section 15(2) of the Immoral Traffic (Prevention) Act, 1956 as no respectable inhabitant of the locality was joined in the search. Furthermore, 03 of the co-accused have been granted the bail by the learned trial Court. Learned counsel has also supplied a copy of the statement of PW-1 (victim/girl), wherein she has been declared as a hostile witness. He further submits that the petitioner has undergone an actual custody of 05 months and 23 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 05 months and 23 days and there is no any other criminal case registered against him. He on instructions from the concerned investigating officer submits that charges were framed on 16.07.2025 and out of a total of 13 prosecution witnesses, 4 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.

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

2025:PHHC:096221



6. On a perusal of the case in hand, it transpires that the petitioner is behind the bar since 7.2.2025. 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, only 04 witnesses have been examined so far. One of the victim-girl has turned hostile during the course of 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 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.

2025:PHHC:096221



- (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

30.07.2025

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No