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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-26020-2025 (O&M)

Decided on: 19.05.2025

Sadam Hussain

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Deepak Gupta, Advocate, for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No. 44 dated 19.02.2024 registered under Sections 363, 366-A, 149 IPC 1860 (Later on Section 365 IPC added vide DDR dated 24.07.2024, Section 120-B IPC added vide DDR dated 15.09.2024, Section 376-D IPC added vide DDR dated 21.10.2024, and section 354-A IPC was added vide DDR dated 03.11.24 and Sections 4 and 8 of POCSO Act added vide DDR dated 16.11.24) at Police Station Dasuya, District Hoshiarpur.

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

“Statement of one Mukhtiar Ali son of Alamdin Resident of Anun, Police Station Bilawar District Kathua, State Jammu and Kashmir, aged about 25 years Mob No. 60063-45811 stated that I am a resident of the said address and doing labour Work. We are three brothers and four sisters. My elder sister Reshma Bibi who is about 17 years old. On 17-02-24 1, along with my sister Reshma Bibi went



to my uncle's son Muhammad Sai, who lives in Chhota Gambhowal. On 19-2-24, when we were going to our village, when we reached the main road near village Gabbhowal Bhagautipur, a white colour Scorpio vehicle without number, which was already parked there, Sadam son of Hasandin, a resident of Chan Gram, district Kathua, was sitting on the driver's seat and Ali Hussain, whose address I did not know, was sitting on the conductor seat, Shaukat Ali son of Shahida, resident of Jhabal, was sitting on the back seat and Hasandin son of Masum Ali resident of Jhabal was sitting with him and Yakub son of Lachho resident of Ghumana was sitting on the last seat near the trunk and alongwith them Shama son of Babudiman resident of Mahilpur was sitting. Who upon seeing us came out of the car and pushed me away and the said persons took my sister away. Thereafter, I went to my uncle's son Muhammad Sai. I kept searching for my sister with Mohammad Sai. And then you have met, I humbly request you that action be taken against the said persons LTI/- Mukhtiar Ali, witness Mohamad Sai, verified Anil Kumar ASI, P.S. Dasuya dated 19.02.2024.”

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case on the statement of the brother of the prosecutrix. There is no incriminating evidence on record to establish the veracity of the allegations levelled against the petitioner. It is submitted that infact, the prosecutrix has turned hostile during the course of trial. Further, two of the co-accused have been granted the concession of regular bail by this Court vide orders dated 25.02.2025 and 26.03.2025 passed in CRM-M-2374-2025 and CRM-M-6340-2025 respectively, while one other co-accused has been granted anticipatory bail by this Court vide order dated 21.04.2025 in CRM-M-458-2025. The petitioner is in custody since 20.09.2024 and there is no other case registered against him.



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4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. Learned State counsel on instructions submits that charges were framed on 17.02.2025 and out of a total of 16 prosecution witnesses, 01 prosecution witness has been examined. She further submits that petitioner has undergone an actual custody of 07 months and 27 days and there is no other case pending against him. Thus, in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail. However, learned State counsel does not controvert the fact that the two of the co-accused have been granted the concession of regular bail by this Court vide orders dated 25.02.2025 and 26.03.2025 passed in CRM-M-2374-2025 and CRM-M-6340-2025 respectively, while one other co-accused has been granted anticipatory bail by this Court vide order dated 21.04.2025 in CRM-M-458-2025.

5. 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 20.09.2024. Investigation is complete. The trial of the case has not made much progress as out of 16 prosecution witnesses, only 01 prosecution witness has been examined so far. The prosecutrix has also turned hostile. Two of the co-accused have been granted the concession of regular bail by this Court vide orders dated 25.02.2025 and 26.03.2025 passed in CRM-M-2374-2025 and CRM-M-6340-2025 respectively, while one other co-accused has been granted anticipatory bail by this Court vide order dated 21.04.2025 in CRM-M-458-2025. 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.

6. 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

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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.

7. 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.

8. 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.

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

(KIRTI SINGH)
JUDGE

19.05.2025

Ramandeep Singh

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