

2025:PHHC:010440



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

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**CRM-M-32831-2024 (O&M)
Date of Decision : 23.01.2025**

JONI

.... Petitioner

VERSUS

STATE OF HARYANA

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Akash Kundu, Advocate for the petitioner.

Mr. Suneel Ranga, DAG Haryana assisted by
Deputy Superintendent of Police, Sampla Mr. Rajneesh Kumar,
ASI Neelam (Investigating Officer)
and ASI Sudesh Rani.

ALKA SARIN, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.100 dated 08.03.2023 under Sections 323, 376-D, 452, 506, 34 and Section 377 (added later on) of the Indian Penal Code, 1860 registered at Police Station Sampla, District Rohtak. Previously a petition being CRM-M-51743-2023 was filed for grant of interim bail to the petitioner which was allowed vide order dated 11.10.2023 passed by this Court.

2. Learned counsel for the petitioner would contend that though the incident was alleged to have occurred on 07.03.2023, however, the petitioner was not named in the FIR recorded on 08.03.2023. Thereafter the Prosecutrix was medically examined and she did not name the petitioner before the Doctor concerned as well. It is further the contention that in the

statement of the Prosecutrix recorded under Section 164 CrPC on 09.03.2023, yet again the petitioner was not named. However, on the same very day the Prosecutrix filed an application before the SHO wherein the Prosecutrix stated that she could not name the petitioner as she was scared, and she could not state all the facts before the Magistrate. It was further stated in the application that Pradeep, who is one of the main accused, had called the present petitioner. It is further the contention that even in the FSL Report the DNA of the petitioner was not found present on the salwar. Learned counsel would further contend that the petitioner has been in custody for a period of 1 year 10 months and 9 days and that there are 25 witnesses whose testimonies have not been recorded despite the challan having been presented on 10.05.2023.

3. *Per contra*, learned counsel for the State has contended that the Prosecutrix could not disclose the entire facts before the Magistrate and subsequently she gave an application wherein she named the present petitioner and stated that he had committed a wrong act with her along with the main accused. It is further the contention that there are serious allegations against the petitioner. Learned counsel for the State has filed the custody certificate and as per the custody certificate, the petitioner has been in custody for a period of 1 year 10 months and 9 days.

4. Heard.

5. In the present case the petitioner was neither named in the FIR nor was he named in the statement made under Section 164 CrPC on 09.03.2023. However, on the same day an application was stated to have

been made by the Prosecutrix to the SHO concerned wherein she stated that before the Magistrate she was scared and hence was unable to give the correct facts and that she wanted to state that the person whom Pardeep called also committed a wrong act with her was the present petitioner. Learned counsel for the petitioner has contended that it was only thereafter the petitioner was falsely implicated in the present case. Learned counsel for the petitioner has further pointed out that the DNA profile of the petitioner was not found on the salwar. The DNA Report has been attached with the status report dated 23.09.2024 filed by way of an affidavit of Rajneesh Kumar, HPS, Deputy Superintendent of Police, Sampla, Rohtak. Learned counsel for the State is not in a position to deny that the DNA profile from Item No.8 (blood sample of Joni – the petitioner herein) is not found on Item No.1. The petitioner has been in custody for a period of 1 year 10 months and 9 days. There are still 25 witnesses to be examined. The trial is likely to take some time to conclude and no useful purpose would be served by keeping the petitioner behind the bars any further.

6. In view of the above and without commenting upon the merits of the case, this Court deems it to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Additional Sessions Judge (Duty) concerned.

7. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

8. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.
9. Disposed off. Pending applications, if any, also stand disposed off.

23.01.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE:

Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO