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

Sr. No.219

**CRM-M-34219-2024 (O&M)
Date of decision : 30.04.2025**

Sanju

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Ms. Pooja Jaglan, Advocate, for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.283 dated 21.05.2023 under Sections 376(2)(f), 376(2)(n) and 506 IPC and Section 6 of POCSO Act, registered at Police Station Industrial, Sector-29, Panipat.

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

*“On dated 21.05.2023, victim girl **** d/o Vinod r/o Kisanpura, Panipat came present in police station and presented one written complaint which is as follows: I, ***** d/o Vinod Kumar r/o house no. 662, gali no. 1, pipal vali gali, Kishanpura. My age is 17 years. I am student of class 11th of Sadanand school. In the month of December, I was alone at home, my uncle Praveen s/o Prem Kumar r/o Peepal Vali gali came to our house to room situated on 1 floor. On finding me alone, he forcefully committed rape with me. He threatened to kill me if I told anyone. out of fear I did not tell this to anyone. my uncle raped me forcefully many times. Legal action be taken against him. FIR no. 283/2023 u/s 376(2)(n), 376 (2)(f) and 6*

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POCSO act was registered at police station sector 29 Panipat and the investigation was conducted by SI Yogesh Kumari.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner is a young boy of 22 years of age with clean antecedents and was not named in the FIR that was initially registered against the uncle of the prosecutrix, but was falsely implicated in this case on the basis of the supplementary statement of the prosecutrix. She further submits that material witnesses i.e. the prosecutrix and her parents have not supported the prosecution version of the case against the petitioner, in support of which submission, reference is made to the statements annexed as Annexures P5 to P7. She further submits that the petitioner has undergone an actual custody of 01 year, 11 months and 05 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 01 years, 11 months and 05 days and there is no other criminal case registered against him. He on instructions from the concerned investigating officer submits that charges were framed on 06.09.2023 and out of a total of 18 prosecution witnesses, 14 witnesses have been examined till date. He however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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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 25.05.2023. 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 18 prosecution witnesses, 14 witnesses have been examined so far. The petitioner has undergone an actual custody of 01 year, 11 months and 05 days and is not involved in any other criminal case. The material witnesses i.e. victim, complainant and mother of the victim have not supported the prosecution case during their cross-examination. 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.

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(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.

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

(KIRTI SINGH)
JUDGE

30.04.2025

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No