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

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Date of Decision: 03.12.2025

JOGINDER

... PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

....RESPONDENT

CORAM : HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Ramandeep Kaur, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.177, dated 03.07.2023, registered under Sections 363, 366, 376-AB of IPC and under Section 6 of POCSO Act, 2012 at Police Station Nissing, Karnal.

2. The translated version of the FIR is reproduced below:-

“To, SHO Sahib, Police Station Nissing (Karnal) sir, it is requested that I am xxx W/o Panna Lal, resident of Nagal Gurjar Jaan Kheda District Saharanpur (U.P.) I do labour work. I am staying with my family at Ajit Bhatta Hathlana to work as a labourer. On 01.07.2023 I and my husband went to work in the morning, then when I came to the house built on the kiln at around 7-1/2, I did not find my daughter xxx at home, which I kept searching on my own. Then, I came to know that Joginder S/o Arjun resident of Taprana Wala has taken my daughter. I did not find Joginder at home. My daughter is 15 years old, 5 ft tall, fair complexion, round face, black Punjabi, white shirt, and wearing



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slippers. I need help. My daughter has taken away an Oppo phone, Rs. 20,000 lying in bag, a silver chain, a gold ring and gold earrings along with her. A missing report should be registered filed."

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case on the statement of the mother of the prosecutrix. It is submitted that the prosecutrix had left her home on her own free will. Furthermore, even the age of the prosecutrix is a contested question of fact, since, as per the own admission of the prosecutrix at the time of recording of her statement under Section 164 Cr.P.C., her age was about 17 years. The prosecutrix therein also did not level any allegation against the petitioner. Rather, she stated that she did not wish to go back with her parents. It is further submitted that the material witnesses stand examined before the learned trial Court. In fact, the complainant and the maternal uncle of the prosecutrix have not supported the case of the prosecution and have been declared as hostile witnesses by the learned trial Court. Reliance in this regard is placed on Annexures P-4 and P-5. The petitioner has already undergone a prolonged custody period of approximate 02 years and 03 months and 07 days.

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 already filed custody certificate in Court today. As per custody certificate, the petitioner has undergone an actual custody of 02 years 03 months and 07 days. Investigation is complete. The charges were framed on 26.02.2024 and out of a total of 14 prosecution witnesses, 03 have been examined. However,



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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.

6. Admittedly, the charges were framed on 26.02.2024 and out of total 14 prosecution witnesses, only 03 have been examined, out of which two material witnesses i.e. the complainant and maternal uncle of the prosecutrix have turned hostile before the learned trial Court. The petitioner has undergone actual custody of 02 years, 03 months and 07 days, and there is no other criminal case registered against him. The veracity of the allegations leveled against the petitioner shall be established during the course of the 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).



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- (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 her 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.

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

03.12.2025
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(KIRTI SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No