



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

214

**CRM-M-34245-2025(O&M)
Decided on: 09.07.2025**

Mukesh Kumar

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Daljeet Singh Virk, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

KIRTI SINGH, J. (Oral)

1. The jurisdiction of this Court has been invoked under Section 483 of BNSS for grant of regular bail to the petitioner in case FIR No.304 dated 12.08.2024, under Sections 61, 64, 65, 96, 137, 122,351 of BNS and Section 6/17 of POCSO Act, Registered at Police Station Sadar Sirsa, District Sirsa.
2. The contents of the aforesaid FIR are reproduced herein below:-

“Statement of Kxxxxxx daughter Raju r/o village Mediakheda, Sirsa aged about 14½ \Mobile No. 97283 47886, Stated that I am a resident of the above address and a student of class 10th. We are five siblings and I am the second one. On 1/08/24 in the evening at 70.00 pm, Ashu daughter of Mohan Lal resident of Mediakheda who is my friend came to our house and told me that we both should go to Sirsa to watch a movie. I went to Ashu's house with her. At the same time, Mukesh son of unknown resident of Dhingtania came to Ashu's house who has been visiting Ashu's house many times before. Ashu told me to go to Sirsa with Mukesh in a pick-up and I will follow you. I came with Mukesh to his village Dhingtania. Mukesh took me to the fields of village Dhigtania where a



boy named Jaswant was standing. Mukesh told me to stand there and he would bring Ashu. Jaswant took me to a room in the fields. There Jaswant turned on his mobile light and did bad things with me (raped me). Jaswant did bad things with me two-three times the whole night. At 5.30 in the morning Mukesh came to pick me up in the same pick-up and dropped me at the railway station of Sirsa. Ashu came with some boy on a motorcycle and picked me up from there and dropped me near the Peer Mandir of village Chauburja. Meanwhile Mukesh dropped me at the railway station and threatened me that if I told all these things to anyone, he would kill me. Ashu's parents dropped me at my home on their bike from near the Peer Mandir of Chauburja village. I was scared for so many days, so I did not tell anything to my family. Then my maternal uncle Sukhram, who is my aunt Bimala's son, asked me everything lovingly, so I told him everything. After that my parents and my Bhama brought me to the police station today for action. Ashu and Mukesh together made me do a wrong thing; legal action should be taken against Mukesh, Jasbat and Ashu. I got my article written in front of my mother on my own will, without any fear and pressure. I read, listened and understood it, which is fine. Sd/- Kxxxxxa Mxxxxu.”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The allegation of committing rape has been levelled only against the co-accused Jaswant. The sole allegation against the petitioner is that he took the victim at the place of occurrence on his pickup vehicle. Learned counsel further submits that there is a delay of 4 days in registering the FIR. The petitioner is in custody since 17.08.2024 and his custody period is 10 months and 21 days. There is one another case registered against the petitioner in which he is on bail.

4. *Per contra* learned State counsel has opposed the bail and submits that the petitioner was actively involved in the commission of the



alleged offence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 10 months and 21 days and there is one more case registered against him. He on instructions from investigating officer submits that charges were framed on 21.04.2025 and out of a total of 32 prosecution witnesses none has been examined till date. He, however, submits that in view of the serious allegations against the petitioner, petitioner is not entitled to the concession of regular bail.

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

6. From a perusal of the case in hand, it transpires that the petitioner is behind the bars since 17.08.2024. 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 charges were framed on 21.04.2025 and out of a total of 32 prosecution witnesses none has been examined till date. 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. As regards the submission of learned State counsel that petitioner is involved in one more criminal case, it has been held by the Hon’ble Supreme Court in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382** that the facts and circumstances of the



present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced herein-below:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

8. Accordingly, 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.
- (IV) The petitioner shall not commit an offence similar to the offence of which she 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/her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

9. 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.

10. 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.

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

(KIRTI SINGH)
JUDGE

09.07.2025
Kapil

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>