



CRM-M-35401-2024

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

(211)

CRM-M-35401-2024 (O&M)

Date of Decision: 04.09.2025

MAMTA DEVI ALIAS MAMTA RANI

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

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

Ms. Saumya Ahluwalia, Sr. DAG, 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.286 dated 11.10.2023 under Sections 376(3) and 34 of IPC, and Sections 4 and 10 of POCSO Act, 2012, registered at Police Station Nathu Sarai Chopta District Sirsa.

2. The brief facts of the instant FIR was registered on the complaint moved by the Counsellor of Child Welfare Committee, Sirsa wherein she stated that:-

“Counselling Report Case No. 311, Subject Today on 11/10/2023, I have received the orders of counselling of girl xxxx 14 presented before Child Welfare Committee. Information given by the child - The girl was treated cordially. The girl said that her aunt xxx took her in May-2023 saying that she had some work at home, and where uncle Udmiram committed wrong act upon her. As the girl is telling, after that she did not even get her periods and she did not tell this to anyone. And the



father left the girl at her maternal house Bakerianwali on 29/9/2023. The girl had complaint of fever and stomach ache, and when the father gave medicine for stomach ache, the girl, as she is telling, got their periods. And the girl was still living in Bakerianwali, and the girl has given this information only. On this basis, the girl was advised not to take too much stress and take care of her health. The girl was advised not to talk much about this and to divert her attention to some other work. The girl was told to pay full attention to her health. The girl was also advised to continue her studies. The girl can be called by the Child Welfare Committee for another session. Sd/ Kavita Counsellor 11/10/2023. Sd/- Antita Kumari 11/10/2023 Chairperson Child Welfare Committee, Distt Sirsa, Member Distt. Child Welfare Committee Sirsa.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. The allegations against the present petitioner that she took the prosecutrix to her house where uncle of the prosecutrix committed wrong acts upon her, however there is no evidence on record to connect the petitioner with the commission of alleged offence. In fact, as per the version in the FIR, the alleged occurrence took place in May, 2023, however, the factum of commission of the same was not disclosed by the prosecutrix, and it was after a delay of nearly 5 months that the instant FIR was registered. It is further submitted that the instant FIR was registered with mala fide motive, since the husband of the petitioner and the father of the prosecutrix, who are real brothers and are involved in a dispute. The prosecutrix had even refused to get conducted her medical examination, and so there is no medical evidence to substantiate the allegations levelled. Even the material witnesses have been examined. He further submits that the petitioner has already undergone an actual custody



of 01 year, 09 months and 29 days, and there is no other case registered against her.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. She states that the petitioner was actively involved in the commission of the offence. She 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 1 year, 9 months and 29 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The trial of the case has not made much progress, as charges were framed on 16.01.2024 and out of a total of 16 prosecution witnesses, only two have been examined including material witnesses. She submits that in view of the serious allegations against the petitioner, she 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 16.01.2024 and out of total 16 prosecution witness, 2 have been examined till date. The petitioner has undergone actual custody of 1 year, 9 months and 29 days, and there is no other criminal case registered against her. 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 her 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 her 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 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.

(KIRTI SINGH)
JUDGE

September 04, 2025
Ithlesh

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