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

Sr. No.223

CRM-M-35785-2025 (O&M)
Date of decision : 15.07.2025

Azad Choudhari

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Ajaivir Singh, Advocate, for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

Ms. Navyuggeet Brar, Advocate, for respondent No.2.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) has been invoked for grant of regular bail to the petitioner in case FIR No.52 dated 17.05.2019 under Sections 363 & 366 IPC (Section 376 IPC and Section 6 of POCSO Act were added later on), registered at Police Station Basti Bawa Khel, Jalandhar, Punjab.

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

“Statement of Prakash Mishra, son of Yaveshwar Mishra, village Banmanthi, Aliganj, Police Station Bahara Kothi, District Parnia, Bihar, presently tenant of landlord Rajinder, Katehra Mohalla, Police Station Basti Bawa Khel, Jalandhar, aged about 45 years, M.No. 85287-94470. Stated that I am a resident of the abovementioned address and work as a gardener. I have 4 children, two daughters and two sons. My eldest daughter is xxxx, whose date of birth is 17.02.2003. Whose age is about 16. years and my daughter was studying in 9th standard in Government School, Berianwala, Raj Nagar.

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My daughter is still a minor. My daughter went to school from home on 14.05.2019 at around 7:30 AM. A boy living opposite our house namely Azad Chaudhary, son of Pope Chaudhary, village Ghogepur Beldawar, District Saharsa, Bihar, would harass my daughter on her way regarding which my daughter told the same to my wife, who reprimanded him. That Azad Chaudhary, son of Pope Lal Chaudhary, village Ghogepur Beldawar, District Saharsa, Bihar, presently Katehra Mohalla, Jalandhar, tricked my minor daughter under the pretense of marrying her and forcibly took her away. I have been searching for my daughter through my relatives, however, I have not traced my daughter. My minor daughter has been abducted somewhere by Azad Chaudhary, son of Pope Lal Chaudhary, village Ghogepur Beldawar, District Saharsa, Bihar under the pretense of marriage. Search for my daughter be carried out and legal proceedings be instituted against him. Sd/- In Hindi Prakash Mishra, verified by Sd/-Mangat Singh ASI, Police Station Basti Bawa Khel, Jalandhar”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present FIR on the allegation of enticing away the prosecutrix on the false pretext of marriage, leveled by the complainant-father of the prosecutrix. It is submitted that the prosecutrix willingly left with the petitioner and even solemnized marriage with him on 13.05.2019. The parties were also blessed with a child on 06.03.2020, who is now over 05 years of age. Reliance is also placed upon the affidavit of the prosecutrix annexed at Annexure P3, wherein she has stated that her relationship and subsequent marriage with the petitioner was consensual and without any influence. Learned counsel further submits that the date in the instant case challan has not been presented and the trial has also not

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commenced. The petitioner has undergone an actual custody of 02 months and 02 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. 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 02 months and 02 days and there is no any other criminal case registered against him. She submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Ms. Navyuggeet Brar, Advocate, puts in appearance on behalf of respondent No.2 and complainant and filed her vakalatnam in Court today. The same is taken on record. She also admits the factum of marriage between the parties.

6. The victim-respondent No.2 is also present in person along with her daughter in Court today and has stated that she is happily married to the petitioner and that the parties have a daughter from their wedlock.

7. Heard the submissions made by learned counsel for the parties.

8. On a perusal of the case in hand, it transpires that the petitioner is behind the bar since 12.05.2025. The investigation in the instant case is still underway and even the challan is yet to be presented. The culpability, if any, would be determined in case, and as and when the trial commences. 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

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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.

9. 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).
- (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.

10. 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.

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11. 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

15.07.2025

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No