



CRM-M-37402 of 2025 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M-37402 of 2025 (O&M)
Date of Decision: 23.7.2025

KULWANT SINGH

.....Petitioner

Versus

STAE OF PUNJAB

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Sandeep Gahlawat, Advocate
for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, Sr. D.A.G., Punjab.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 has been invoked for grant of regular bail to the petitioner in case FIR No. 11 dated 15.01.2024 under Sections 363 and 366-A of IPC (Section 376(2) (n) IPC added later on), registered at Police Station Tripuri Patiala, District Patiala.

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

“At this time a written statement/complaint of Samarpal S/o Siya Ram, R/o Village Bahpur Patti Pehladpur, Police Station Baijoi, District Sambal, (UP) now residing on rent in the house of Javir Das near Lala Wala Peer, Vikas Nagar, Patiala, aged 42 years. M. No. 97793-85073 has been received by ASI Gurbinder Singh 2426/Sangrur, P.S. Tripuri for registration of case FIR against Kulwant Singh S/o Suresh, R/o Village Bahpur Patti Pehladpur, Police Station Baijoi, District Sambal, (UP) now resident of Nalagarh, Himachal Pardesh. The contents of the same are as under:

Stated that I am resident of above mentioned address and labourer by profession. I am having 4 children. My eldest daughter, namely, xxxx, aged 17 years as her date of birth is



25.09.2006 and was studying in 9th class at Government Senior Secondary School, Civil Lines, Patiala. That on 12.01.2024 at about 11.00 A.M., my daughter-xxxx went from home without disclosing anything to anyone. I tried to search her at my own level but till now my daughter-xxxx has not come back at home. Almost one year ago my daughter-xxxx started talking with one boy, namely, Kulwant Singh S/o Suresh resident of our village Bahpur. We made our daughter- xxxx understand at our own level. Now after enquiring the same I came to know that above Kulwant Singh S/o Suresh, R/o Village Bahpur, Patti Pehladpur, P.S. Bejoi, District Sambal (U.P.) now resident of Nalagarh, Himachal Pardesh has taken my daughter-xxxx while alluring her on the pretext of solemnizing marriage with her. In this regard today I alongwith my wife-Usha came to the police station to inform the same and you have met me. My daughter-xxxx may kindly be searched and an appropriate legal action may kindly be taken against the accused-Kulwant Singh S/o Suresh. I got recorded my statement, heard and the same is correct."

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case on the statement of the father of the prosecutrix, on the allegation that the petitioner had enticed away his daughter on the pretext of solemnizing marriage. It is submitted that the instant FIR was registered after a delay of 3 days from the date of the alleged occurrence. Further, in the statement of the prosecutrix recorded under Section 164 Cr.P.C., before learned Judicial Magistrate Ist Class, Patiala, no allegation has been levelled against the petitioner; rather it was stated by the prosecutrix that she voluntarily went with the petitioner. Moreover, the prosecutrix was examined as a witness before learned trial Court wherein, she was declared to be hostile. It is the submission that even as per the MLR of the prosecutrix (Annexure P-3), no external injury was found on the person of the prosecutrix. Learned counsel states that the petitioner is a 26 year old man of clean antecedents, and has been in custody

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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 year, 04 months and 24 days. He on instructions from the concerned investigating officer submits that challan stands presented and charges had been framed on 06.06.2024. He also submits that out of a total of 19 prosecution witnesses, one has been examined till date. 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. On a perusal of the case in hand, it transpires that the petitioner is behind the bar since 28.02.2024. Investigation is complete. The final report under Section 173 Cr.P.C. stands presented before the concerned Court. Trial of the case has not made much progress as out of 19 prosecution witnesses, only one witness has been examined so far. The prosecutrix has turned hostile during the course of the trial. 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



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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).
- (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



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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

July 23, 2025
Jyoti-IV

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