



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

CRM-M-41145-2025

Reserved on : 16.10.2025

Pronounced on : 03.11.2025

Ajesh Kumar @ Aju

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by : Ms. Kashish Sahni, Advocate for the petitioner.

Mr. Ramender Singh Chauhan, A.A.G., Haryana.

Mr. Tushar Gautam, Advocate for the complainant.

NAMIT KUMAR, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail in case bearing FIR No.36 dated 30.01.2024 registered under Section 365 of Indian Penal Code, 1860 (Section 6 of Protection of Children from Sexual Offences Act, 2012 and Sections 363 & 366-A of IPC were added and Section 365 of IPC was deleted later on) at Police Station Naraingarh, Ambala.

2. Status report by way of an affidavit of Sh. Suraj Chawla, HPS, Deputy Superintendent of Police, (Hqs.) Ambala, on behalf of the respondent-State, filed in the Registry is taken on record.

3. Brief facts of the case are that on 30.01.2024, father of the victim made a complaint to the police stating therein that on 29.01.2024 at about 7:30 a.m., his daughter, who is 17½ years old, had gone for a

**CRM-M-41145-2025****2**

morning walk and thereafter, she did not return home. He tried to search her at his own level but could not find her anywhere. Her mental condition is not good as she is suffering from fits for which her treatment is also on going. On the basis of the said complaint, the instant FIR was registered. On 03.02.2024, the victim was recovered and on 04.02.2024, her statement under Section 164 of Cr.P.C. was recorded, wherein she made allegations of sexual intercourse against Ajesh Kumar @ Aju (the present petitioner). Her medical examination was also got conducted.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. She submits that the relationship between the petitioner and the victim was consensual in nature as the petitioner and the victim were friends with each other for about a year and were regularly meeting with each other. However, the father of the victim was not happy with the said relationship as they belonged to Jatt community and the petitioner belonged to Scheduled Caste community. She submits that the FIR was initially registered as a missing complaint and later on offence under the POCSO Act was added only to falsely implicate the petitioner. She further submits that there are material contradictions and improvements in the statements made by the victim. She further submits that in her testimony recorded before the Trial Court, the victim admitted that during those alleged three days, she along with the petitioner had visited Panchmukhi Temple, Mullana, which clearly shows that the victim went with the petitioner out of her own free will.



5. Learned counsel for the petitioner further submits that the petitioner is behind the bars since 05.02.2024. She also submits that investigation in the present case is complete; challan stands presented; charges have been framed and out of total 24 prosecution witnesses, only 13 have been examined so far and 07 have been given up. The trial is likely to take a considerable time to conclude and therefore, no fruitful purpose would be served by detaining the petitioner behind the bars.

6. Per contra, learned State counsel assisted by learned counsel for the complainant, while referring to the averments made in the status report, has vehemently opposed the prayer for grant of regular bail to the petitioner on the ground that the allegations against the petitioner are serious in nature and there is every possibility that after being released on bail, the petitioner may influence the prosecution witnesses of the present case. He further submits that the petitioner is a habitual offender and apart from the instant case, he is also involved in 05 other cases regarding which the petitioner has not mentioned anything in the instant petition. He, on instructions, further submits that out of total 24 prosecution witnesses, 13 have been examined; 07 have been given up and only 04 are left to be examined and therefore, the trial is likely to be concluded very soon. He has also filed custody certificate dated 15.10.2025 which is taken on record. As per the custody certificate, the petitioner is in custody for the last more than one year and eight months.

7. I have heard learned counsel for the parties and perused the



record.

8. As per the prosecution, on 30.01.2024, the father of the victim made a complaint to the police stating therein that on 29.01.2024 at about 7:30 a.m., his minor daughter had left the house for a morning walk. However, after a long time, she did not come back. He tried to search her everywhere but could not find her. She is not mentally fit. She usually has seizures and is taking medicines for the same. On receipt of the said complaint, instant FIR was registered under Section 365 of IPC and investigation was initiated. On 03.02.2024, the victim was recovered from Anaj Mandi, Naraingarh and on 04.02.2024, her statement under Section 164 of Cr.P.C. was recorded, wherein she made allegations of rape against the petitioner, hence, offences under Section 6 of POCSO Act and Sections 363 & 366-A of IPC were added in the FIR. Medical examination of the victim was also got conducted. During investigation, age certificate of the victim was also obtained. On which the date of birth of the victim is mentioned as 17.03.2007, which was taken into police custody.

9. Admittedly, in her statement recorded under Section 164 of Cr.P.C., the victim made specific allegations against the petitioner stating that on 29.01.2024, the petitioner came to her village and took her to his house at village Bada Gaav and forcefully made relations with her and in her testimony recorded before the trial Court as PW-1, she has deposed that about one year ago, the petitioner met her near her tuition centre. He made a proposal for making friendship with her. On his asking, she made friendship with him. They both used to meet at



Burger Point, Naraingarh while going to the school as well as to the tuition centre. On 29.01.2024, the petitioner came to her house and took her with him by saying that they are going for an outing. He also told her that he is already married and has one child from that marriage. Earlier, also he used to take her for outing here and there at Naraingarh. On 29.01.2024, the petitioner took her to the Grain Market, Naraingarh in room No.58. The key of that room was already with the petitioner. She was kept by the petitioner in that room for about three days and there he made physical relations with her several times without her consent. He also gave beatings to her at that time. These statements reflect the grave nature of the offence and commission of a heinous crime of rape upon the minor victim, leaving no room for leniency, at this stage, to grant concession of regular bail to the petitioner.

10. So far as the arguments raised by learned counsel for the petitioner with respect to the contradictions in the statements of the victim are concerned, it is a settled proposition of law that the court should fully considers how significant the contradictions in the statements of the victim are and whether they undermine the credibility of the overall evidence in the case. No doubt, that there are mere contradictions in the statement of the victim recorded under Section 164 of Cr.P.C. and statement recorded before the Trial Court, however, in both the statements she has made specific allegations of rape against the petitioner. Even the doctor, who conducted MLR of the victim, has given opinion (Annexure R-2) that the possibility of sexual assault cannot be ruled out and the DNA report (Annexure R-5) is also against



the petitioner. Furthermore, in offences like this nature the culprit will always wait for the chances of aloofness. Therefore, mere contradictions in the statements of the victim, who is a minor school going girl, is no ground for grant of concession of regular bail to the petitioner.

11. Further, the antecedents of the petitioner are also not clean, since as per the custody certificate, apart from the present case, the petitioner is involved in following 05 other criminal cases :-

Sr. No.	Particulars	Status
1.	FIR No.421 dated 07.09.2022 registered under Sections 457 & 380 of IPC at Police Station Naraingarh, Ambala.	Convicted vide judgment dated 08.12.2022.
2.	FIR No.422 dated 07.09.2022 registered under Sections 454 & 380 of IPC at Police Station Naraingarh, Ambala.	Convicted vide judgment dated 08.12.2022.
3.	FIR No.407 dated 01.09.2022 registered under Sections 454 & 380 of IPC at Police Station Naraingarh, Ambala.	Convicted vide judgment dated 18.01.2023.
4.	FIR No.186 dated 11.10.2021 registered under Section 380 of IPC at Police Station Raipur Rani, Panchkula.	Acquitted vide order dated 08.05.2024.
5.	FIR No.131 of 2022 registered under Section 365 of IPC at Police Station Saha, Ambala.	Acquitted vide order dated 10.07.2025.

12. Moreover, the petitioner has also failed to make a clean disclosure of his antecedents, as in para 24 of the petition it has been stated that the petitioner is not involved in any other case and has not been declared as a proclaimed offender, thus, the petitioner has not approached this Court with clean hands. Recently, the Hon’ble Supreme Court in *Munnesh Vs. State of Uttar Pradesh : 2025 SCC Online SC 1319* has categorically held that non-disclosure or suppression of criminal antecedents in bail or anticipatory bail petitions constitutes an



abuse of process of law and such suppression may itself be a sufficient ground for dismissal of the petition. Although, directions were issued in the context of petitions for special leave to appeal before the Supreme Court, the underlying principle enunciated therein squarely applies to the present case. The same standard of candour and fairness is expected from a petitioner approaching this Court under Section 483 of BNSS for regular bail. In *Kaushal Singh Vs. State of Rajasthan : 2025 INSC 871*, the Hon'ble Supreme Court further emphasised that every bail application must contain a full disclosure of applicant's criminal antecedents, observing that such disclosure is essential for a fair and informed exercise of judicial discretion.

13. So far as the argument raised by learned counsel for the petitioner with respect to the consensual relationship between the petitioner and victim is concerned, as per the ossification test of the victim, at the time of incident her age was 16 to 17 years and, therefore, this contention does not hold any water, since in view of the settled proposition of law 'consent of the minor is immaterial and has no relevance under the POCSO Act, 2012, as the Act aims to protect children from sexual offences regardless of any purported consent, and even if a minor consents to a sexual relationship, it is to be ignored, as minors are deemed incapable of giving lawful consent'.

14. In view of the above, the petitioner prima facie cannot be considered as innocent or having been falsely implicated in the present case, since there is sufficient and ample documentary evidence against the petitioner, for committing heinous crime of rape upon the minor



victim. In case such kind of wrong doers, as like the petitioner, are granted protection of any kind in the wake of increasing menace and rising crimes under the provisions of POCSO Act, it will give a wrong impact on the society at large, especially on the school going children, being the most vulnerable lot. Therefore, keeping in view the seriousness of the offence committed by the petitioner, this Court is of the considered opinion that in case the petitioner is granted the concession of regular bail, it would go against the object and purpose of the legislature, which has enacted the POCSO Act as special enactment, which aimed at providing robust protection to children from sexual offences.

15. Consequently, the instant petition is Dismissed.
16. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

03.11.2025
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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:

Whether Reportable:

Yes/No

Yes/No