



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207-1

CRM-M-47954-2024 (O&M)
Decided on : 29.01.2025

VIRENDER SINGH

. . . Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Aditya Sanghi, Advocate
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

Mr. Rakesh Nehra, Senior Advocate with
Mr. Reetesh Kumar, Advocate,
Mr. Sauhard Singh, Advocate and
Mr. Rupender Singh, Advocate for the complainant.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.07 dated 06.03.2024, registered for the offences punishable under Sections 376-D, 342, 506, 354-A, 34 and 376-DA of IPC and Sections 6/12 of POCSO Act, 2012, at Police Station Women Police Station Bahadurgarh Jhajjar, District Jhajjar, Haryana.

2. Vide order dated 30.09.2024, petitioner was granted interim regular bail. The order dated 30.09.2024 read as follows:

"1. Present petition has been filed under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.07 dated 06.03.2024, registered for the offences punishable under Sections 376-D, 342, 506, 354-A, 34 and 376-D of IPC and Sections 6/12 of POCSO Act, 2012, at Police Station Women Police Station Bahadurgarh Jhajjar, District Jhajjar, Haryana.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

"Application No.42-5D dated 06.02.2024 was received in the Police Station Women Bahadurgarh. Contents of which are:- To the SHO Sahib Women Police Station Bahadurgarh. Sir, Requested that I Aaliya daughter of Kadir is resident of Mustafabad Gokalpuri Delhi now residing as tenant Mundka Delhi. On dated 05.03.2024, my sister Rajesh who is residing in my neighbour in



Mundka, bring me to Kabir Basti, Ward No.31 Bahadurgarh in a Hotel for giving me Job. At Brigadier Hoshiyar Singh Metro Station, Virender @ Bular Pehalwan by getting her and her sister Rajesh sit in his Wagon Car bearing No.HR-12AD-8094 took them in his Hotel and said that this girl is right for job and I will keep her on job. Thereafter he served me and my sister tea-water etc. Thereafter Amit also came there and then started drinking alcohol and locked my sister in room and done wrong act with me. Thereafter Sandeep Dalal also came there and he also done wrong act with me and said that do not tell anything otherwise we will kill. We ran from there with great difficulty to save us. Strict action be taken against the accused persons and justice be got delivered to me. Sd/- Aaliya. Aaliya daughter of Kadir resident of Mustafabad Gokalpuri Delhi now address Mundka 7417485389. Rajesh sister 9996129353"

3. *Learned counsel for the petitioner has argued that the petitioner is in custody since 10.03.2024. Learned counsel has further argued that one lady namely Rajesh is running a honey trap racket and is involving large number of people into it and is extorting money from them. In this regard, learned counsel for the petitioner has drawn the attention of this Court to paragraph No.3 of the petition which reads as under :-*

3. *That the co-accused of the petitioner namely Sandeep Kumar has already been granted interim regular bail on merits vide order dated 23-08-2024 passed in CRM-M-26541-2024 enclosed as Annexure P- 9. This Hon'ble Court while granting interim bail to co-accused has observed as under:-*

"3. *Learned counsel for the petitioner has argued that the petitioner is in custody since 26.03.2024. Learned counsel has further argued that one lady namely Rajesh is running a honey trap racket and is involving large number of people into it and is extorting money from them. In this regard, learned counsel for the petitioner has drawn the attention of this Court to paragraph No. 17 of the petition which reads as under :-*

"17. *That this Lady namely Rajesh is having many Identities and is running the Honey Trap Racket and is handler of the same who is using the girls/ladies in registration of false cases against them in order to extract money and have extract more than Rs.50 lacs from the persons by register such false cases and after that taking money from them. The following FIRs of which has been registered by Rajesh above or at her instances:*

(1) *FIR No.7 dated 06.03.2024 u/s 342, 376-D, 506 of IPC at PS Women Bahadurgarh, District Jhajjar.*

(ii) *FIR No.604 dated 07.06.2014 u/s 376/506 IPC at P.S Begumpur, Outer District Delhi.*

(iii) *FIR No.460 dated 18.06.2016 u/s 376(2)(n), 506 IPC at PS. Vijay Vihar, Outer District Delhi, CRM-M-26541-2024*

(iv) *FIR No.42 dated 12.03.2204 u/s 328, 376-D of IPC P.S. Bajghera, District Gurugram.*

(v) *FIR No.72 dated 14.03.2023 u/s 328, 354, 376, 506 IPC at P.S. Rewari City, District Rewari.*

(vi) *FIR No.201 dated 18.04.2023 u/s 120-8, 34, 384, 395, 388 IPC at P.S. City Bahadurgarh, District Jhajjar."*

Learned counsel for the petitioner has further argued that victim (when examined as a prosecution witness) has turned hostile. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. *Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate*



dated 23.08.2024 in Court, which is taken on record.

5. Learned counsel for complainant-respondent No. 2 has submitted that he is not opposing the instant petition on account of the victim/complainant having been turned hostile (when examined as a prosecution witness).

6. I have heard counsel for the parties and have gone through the available records of the case.

7. The petitioner was arrested on 26.03.2024 whereinafter investigation was carried out and challan stands presented on 03.05.2024. Total 30 prosecution witnesses have been cited and culmination of trial, but of course, will take its own time. It is not disputed that the victim has turned hostile when examined as a prosecution witness. The rival contention of learned counsel for the parties; as to the weightage required to the testimony of the hostile witness; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 23.08.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 04 months and 27 days & is not shown to be involved in any other case. There is another aspect nay disturbing aspect of the matter which is reflected in paragraph 17 of the petition which has been reproduced hereinabove which reflects that as many as six cases have been registered at the instance of one lady namely Rajesh and perusal of paragraph 17 shows that these FIRs primarily pertain to offence of rape. The Commissioner of Police, Sonipat is directed to look into this entire aspect of the matter and submit a status report.

8. In view of above, the petitioner is ordered to be released on interim bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CIM/Duty Magistrate".

Learned counsel for the petitioner has further argued that victim (when examined as a prosecution witness) has turned hostile. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 29.09.2024 as also status report/compliance report dated 28.09.2024 in the Court today, which are taken on record.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 10.03.2024 whereinafter investigation was carried out and challan stands presented on 03.05.2024. Total 30 prosecution witnesses have been cited and culmination of trial, but of course, will take its own time. It is not disputed that the victim has turned hostile when examined as a prosecution witness. The rival contention of learned counsel for the parties; as to the weightage required to the testimony of the hostile witness; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 29.09.2024 filed by learned State counsel, the petitioner has already suffered incarceration for



a period of 06 months and 18 days. As per the said custody certificate, the petitioner is stated to be involved in three other FIRs, but this factum by itself cannot be sufficient to decline the grant of interim regular bail to the petitioner in the instant case.

There is another aspect nay disturbing aspect of the matter which is reflected in paragraph 3 of the petition which has been reproduced hereinabove which reflects that as many as six cases have been registered at the instance of one lady namely Rajesh and perusal of paragraph 3 shows that these FIRs primarily pertain to offence of rape. The Commissioner of Police, Jhajjar is directed to look into this entire aspect of the matter and submit a status report.

7. In view of above, the petitioner is ordered to be released on interim regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.*
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.*
- (iii) The petitioner shall not absent himself on any date before the trial.*
- (iv) The petitioner shall not commit any offence while on bail.*
- (v) The petitioner shall deposit his passport, if any, with the trial Court.*
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Ilaqa Magistrate.*
- (vii) The petitioner shall not in any manner try to delay the trial.*

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Adjourned to 24.10.2024.”

3. Learned State Counsel inter alia submits that there are serious allegations levelled against the petitioner. The call detail records of the petitioner, the victim, and eye-witness Rajesh indicate multiple interactions between the parties, thereby raising serious concerns regarding his role in the alleged conspiracy. During the course of the investigation, ten individuals were examined, whose statements indicate that concerted efforts were made by the petitioner to compromise the case through monetary inducements. Moreover, eye-witness Rajesh, in her disclosure statement, has admitted to having received ₹15 lakh from the family of the petitioner in consideration of withholding her testimony, out of which ₹3.5 lakh was her personal share.



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4. Learned State counsel has filed custody certificate in Court today and the same is taken on record. He on instructions from the concerned investigating officer submits that challan was presented on 03.05.2024 and charges were framed on 02.07.2024 and out of total 30 prosecution witnesses, only 05 have been examined till date.

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

6. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the allegations against the petitioner are that he took the victim and one Rajesh to his hotel and committed wrongful act with the victim. 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. The trial in the present case will not conclude anytime soon. 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 violate 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. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the order dated 30.09.2024 is hereby made absolute.

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

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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.

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

(KIRTI SINGH)
JUDGE

29.01.2025

Kavita

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*