



CRM-M-48999-2024(O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-48999-2024(O&M)
Decided on: 22.05.2025

Tikaram Athya alias Tiku

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. L.S. Lakhanpal, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court has been invoked under Section 483 of BNSS for grant of regular bail to the petitioner in case FIR No.0469 dated 26.06.2023, under Section 363 IPC, (challan presented under Sections 363, 366-A and 506 IPC and Section 06 of POCSO Act), registered at Police Station Suraj Kund, District Faridabad.

2. The contents of the aforesaid FIR are reproduced herein below:-

*“To, Chowki Incharge, Police Chowki Sector 46, FBD.
Sir, It is requested that I Kalla Dhimar son of Shankar is resident of Village Barkhera, Police Station Hinduria, District Damuh UP at present tenant of Chanderbhan Colony, Sector 45, Faridabad. I have five children, out of which four daughters and one son. I am labourer. The third daughter whose name is Prem is aged about 13-14 years. Yesterday on 25.6.2023 at about 12.00 PM, went for work at Green Field Colony, Faridabad, thereafter with her free will sent went away some where without intimating me after placing umbrella on the roof of my rented Jhuggi. Till now we all were searching her, but did not found. The same be searched. The description of my*

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daughter is Colour: Whitish, round face, sold body, height 4 feet 5 inch and age 13-14 years. She has worn golden shirt, pink salwar and green dupatta and having chappal on feet and necessary action to be taken. Sd/-”

3. Learned counsel for the petitioner submits that the present case was lodged on the complaint made by the father of the prosecutrix to report her as missing. It is submitted that after the prosecutrix returned home, the complainant submitted an affidavit dated 21.07.2023 (Annexure P-2) to the effect that he did not want to pursue the case any further. Further, statement of the victim was got recorded under Section 164 Cr.P.C., as per which no offence was made out against the petitioner, and on that basis even a cancellation report was prepared. However, the matter was ordered to be reinvestigated, leading to the false implication of the present petitioner. Learned counsel submits that there is no evidence, medical or otherwise to connect the present the petitioner to the alleged occurrence. The petitioner is a young person of 19 years having clean antecedents and has already undergone actual custody since 11.12.2023 and has undergone an actual sentence of 01 year, 05 months and 11 days.

4. *Per contra* learned State counsel has opposed the bail and submits that the petitioner was actively involved in the commission of the alleged offence. He has filed custody certificate and reply in Court today and the same are taken on record. As per custody certificate, the petitioner has undergone actual custody of 01 year, 05 months and 11 days. He on instructions from investigating officer submits that charges were framed on 23.10.2024 and out of total of 25 prosecution witnesses, none has been examined till date. He, however, submits that in view of the serious



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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. From a perusal of the case in hand, it transpires that the petitioner is behind the bars since 11.12.2023 and has no other case registered against him. Investigation is complete. 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, as charges were framed on 23.10.2024 and out of total of 25 prosecution witnesses, none has been examined. The material witness i.e. complainant has been examined. 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 Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another”, (2018) 3 SCC 22.**

7. Accordingly, 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 she is accused of, or for commission of which he is



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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/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

22.05.2025
Kapil

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