



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

**CRM-M-46041-2025
Decided on: 27.08.2025**

MOSAM

. . . Petitioner

Versus

STATE OF HARYANA

. . . Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Saleem Ahmed, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH, J. (Oral)

1. This is third petition filed under Section 483 of BNSS for grant of regular bail to the petitioner in case FIR No.36 dated 24.10.2021, under Sections 354, 323, 506, 201 of IPC, Section 10 of POCSO Act and Section 67-A of IT Act, registered at Police Station Women Police Station, Mewat, District Nuh.

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

“To SHO Madam, women Police Station, Nuh. Subject for taking legal action against Mosam, Abrar son of Jumme Khan resident of Village Dihana for committing of obscene activity, harassing and viral the photo in social media and again for harassment. Respected Mam, it is requested that I am Nisar Ahmad son of Haji Abaas, resident of Village Dihana, Tehsil and District Nuh. Today I became surprise when I saw my daughter xxxxx age 17 year photo on social media. My daughter photo was uploaded from the phone No. 9812828810. When I enquired from my daughter, my daughter xxx and younger daughter xxxx aged 16 years disclosed that these photo was taken by Abrar 6 months back and thereafter Mosam, Abrar continue harassing. That there doing obscene Act from the roof with both of us and when we use to passed away, they met us and asked for established the physical relation and also threaten us that if you did not Act according to our wishes we would viral the photo on social media, which were taken from the roof. They also tendered threat to defame us and they create



hurdle in our marriage. We deny their demands thereafter both brothers viral our photos. They also threaten us that if we disclosed any in-home then they have country made pistols and they would kill our brothers and parents. Mdm the above-mentioned facts were disclosed by my daughter's. Our daughter concealed these due to fears. When I asked to the accused regarding that why you are harassing my daughter's and why you are taken pictures and viral on the social media. They told that if you love to your life use to keep silent. Otherwise, you better know what we can to thereafter both boys started throwing bricks and stones over the roof. The above accused person is a quarrelsome nature and there is situation of qua and they can attack on us at any time. Therefore, I requested to take strict legal action against the above mentioned accused who committed options Act, harass on the way for defame through the viral photo on social media. I have submitted my complaint previous occasion against the above-mentioned accused but no action has taken so far, therefore now they have come confident. That I have already submitted the above-mentioned accused person a quarrelsome and families. Today they also more or less my daughter xxxx 16 and my sister-in-law xxxx 15 years Hukam inside herself from medical College in the letter for treatment due to this region while took place and they threw bricks and stones on the roofs and attacked on us we made call on 112 and called the Police on the spot. The quarrel. Therefore, it is requested kindly take legal action against the accused person and justice be given a complainant Nisar Amit son of Haji Abaas resident of village Dihana.”

3. The earlier bail petition of the petitioner was dismissed by this Court on 02.04.2025 on the ground that the petitioner remained absconding for a period of 3 years. Now, the learned counsel for the petitioner has submitted that there has been change in circumstance, as the main accused namely Abrar has been acquitted by the learned trial Court vide judgment dated 04.08.2025 (Annexure P-4).

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the instant case because of party fraction in the village. It is further submitted that the real uncle of the prosecutrix i.e. the brother of the complainant is involved in previous dispute with the present petitioner and because of this reason also the present petitioner has been implicated in the instant case. Further during the course of examination, the victim has turned hostile. Even otherwise, at the stage of



grant of bail, a roving enquiry into the evidence is not to be made. The petitioner, is in custody since 28.09.2024, and has already faced a prolonged incarceration for a period of 10 months and 28 days till date; and there is no other case registered against him.

5. *Per contra* learned State counsel has opposed the bail and submits that there are serious allegations against the petitioner. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 10 months and 28 days and there is no other case registered against him. He on instructions, submits that charges were framed on 12.12.2024 and out of total of 18 prosecution witnesses, only 01 witness has been examined till date. He, however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

7. From a perusal of the case in hand, it transpires that the petitioner is behind the bars since 28.09.2024. 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 12.12.2024 and out of a total of 18 prosecution witnesses, only 01 witness has been examined till date. The culpability, if any, would be determined at the time of trial when the main case has already been acquitted. 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.**



8. The grant of bail is warrants drawing a delicate balance of competing legal and societal interests. It is settled law that personal liberty of an individual, a cherished constitutional guarantee, cannot be taken away except in accordance with the procedure established by law. A person accused of committing non-bailable offences can be detained in custody during the pendency of the trial, unless enlarged on bail. However, exercising judicial discretion in bail matters, Courts must be guided by a calibrated assessment of factors such as the nature and gravity of the offence so alleged, the strength of the prima facie case, the likelihood of the accused fleeing justice, tampering with evidence or influencing witnesses, and the overarching interest in ensuring that the trial proceeds fairly and without obstruction.

9. 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 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.

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.

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.

12. Meanwhile, learned trial Court is encouraged to conclude the trial expeditiously.

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

(KIRTI SINGH)
JUDGE

27.08.2025

Ithlesh

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>