

2025:PHHC:054341



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

Sr. No.210

**CRM-M-51285-2024 (O&M)
Date of decision : 28.04.2025**

Jaspal Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Ms. Mehak Bedi, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab .

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) has been invoked for grant of regular bail to the petitioner in case FIR No.163 dated 04.10.2023 under Sections 363 & 366-A IPC (Section 120-B & 376(3) IPC and Section 6 of POCSO Act added later on) registered at Police Station Sadar Hoshiarpur, District Hoshiarpur.

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

'Statement of Somnath son of Sh. Sadhu Ram resident of village Sarmastpur Police Station Maksuda District Jalandhar now resident in house of Ram Pal at village Majhi Police Station Sadar District Hoshiarpur aged 38 years Mobile No: 98771-37051. Stated that I live at the aforesaid address and I work as a shopkeeper in Melia. I have three children, the elder girl Harman age 14 years, the younger boy Daman age 12 years and the youngest Karthik age 10 years, all of whom are studying, the girl Harman whose date of birth is 19-06-2009 and she studies in the tenth class in Government High School village Dada District Hoshiarpur. On 25-09-2023, I and my

2025:PHHC:054341



wife went to set up a shop at Baba Sodal Mela Jalandhar and stayed at home but my father Sadu Ram son of Tulsi Ram lives with my children. On 27-09-2023, in the morning my father told me on the phone that the girl Harman is not in her room. I tried to search her out but could not trace her and thereafter, my father told me that I will search her till evening but in the evening, my father told me that he did not find out the girl Harman, so the next day I and my wife Bindu left the daily wager at my shop and came to our house in the village Majhi and started inquiring about my girl but could not get her whereabouts. Thereafter, Asha wife of Harmesh Lal, who lives in our neighbourhood, told that on the night of 26-09-2023, Harman had called someone on phone number 76968-37082. When my wife Bindu called on this number, the phone number was of Harpreet Singh alias Happy, son of Tarlochan Singh, resident of Jallowal Colony Police Station Bhogpur, District, Jalandhar, picked up the phone and my wife asked if Harman was with you, then he said that had you come to give Harman to me, and hung up the phone. About 3-4 months ago, Harpreet Singh alias Happy took my daughter Harman to Sarmastpur village on the pretext of marriage, then he left her after a few days when we filed a police complaint, but due to respect we could not take any action against him and started living here at Sarmastpur. We have been searching for our daughter Harman till now but we have not found any information about her. I am absolutely sure that my daughter Harman has again been taken by Harpreet Singh alias Happy son of Tarlochan Singh resident of Jalowal Colony Police Station Bhogpur District Jalandhar, on the middle of the night of 26/27-09-2023, on the pretext of marrying her, against whom action should be taken. I have written the statement in the presence of my wife Bindu which I have heard which is correct. Sd/- Som Nath, Witness Sd/- Bindu, verified Sd/- ASI Sewa Das, Police Station Sadar,

2025.PHHC:054341



District Hoshiarpur Dated 04-10-2023. Police Action:- Today I ASI along with HC Jatinder Kumar No. 98/Hoshi:, Lady head Constable Asha Rani No.644/ Hoshi:, PHG Harbhajan Ram No.25738 were present at Police Station that complainant Som Nath along with his wife Bindu came present and got recorded his statement before me, his statement was typed in the laptop and was read out and explained to him and after reading the statement and accepting it to be as correct, he signed his statement in Punjabi language and his wife Bindu attested the same, which I verified. From the perusal of the said statement, the offence under Sections 363, 366-A IPC, is being made out. A ruqa in writing is being given to Munshi of Police Station for registration of a case. The number of the case should be intimated after registering the FIR. Special report should be issued and a notification should be given to the Control Room. I ASI along with the complainant and other co-police officials is departing to the spot. Sd/- ASI Sewa Das Police Station Sadar District Hoshiarpur Dated 04-10-2023, Today at Police Station Sadar Hoshiarpur At 08.05 PM. Today at Police Station: The said written statement along with ruqa have been received at Police Station and the case is being registered and the original copy of the FIR is being sent by hand through PHG Rajesh Kumar 26314 to ASI at the spot. After preparing the special report, the same should be sent to District Magistrate Sahib and senior officers through PR/HC Raj Kumar 672/HPR. A wireless notification is being given to Control Room. Rapat Entry No. 40 dated 04-10-2023 Time:- 09.20 PM'

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case, being the brother-in-law of the main accused, and was not even named in the FIR. It was alleged that the prosecutrix was enticed away for marriage by the main accused, who

2025:PHHC:054341



was residing at the house of the petitioner, and the only allegation against the present petitioner is that the prosecutrix was recovered from his residence. She further submits that the petitioner has undergone an actual custody of 09 months and 21 days.

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 09 months and 21 days and there is 03 other criminal cases registered against him, however, he is on bail in those cases. He on instructions from the concerned investigating officer submits that charges were framed on 20.08.2024 and out of a total of 19 prosecution witnesses, 03 have been examined till date. Qua the antecedents of the petitioner, it is further submitted that the petitioner is facing trial in one other case, has been acquitted in one case while he has been convicted in two other cases. He however, 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. A perusal of the case in hand transpires that the petitioner is behind the bar since 17.06.2024. 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 out of 19 prosecution witnesses, only 03 witnesses have been examined so far. The material

2025:PHHC:054341



witnesses have 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. As regards the submission of learned State counsel that petitioner is involved in other/one more criminal case(s), reference is placed upon the judgment of the Hon’ble Supreme Court in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382** in which, it is held that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other/another case(s). The relevant portion of the said judgment is reproduced herein-below:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

8. 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

2025:PHHC:054341



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.

9. 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.

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

(KIRTI SINGH)
JUDGE

28.04.2025

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No