

**CRM-M-51860-2024****208****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CRM-M-51860-2024****Date of Decision: 17.01.2025**

Vikas Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGHPresent: Mr. Kunwar Rajan, Advocate
for the petitioner

Ms. Aakanksha Gupta, AAG Punjab

KIRTI SINGH, J.(Oral)

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.70 dated 31.08.2024, under Sections 75(2), 77, 78, 79, 305, 351(2) of BNS, 2023 registered at Police Station Kurali, SAS Nagar.

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

“Copy of statement of Prabhjot Kaur w/o Deepak Walia R/o #275, Ward No.9, Kurali PS- City Kurali, District SAS Nagar aged about 39 years old, Mobile No. 62391472401 stated that I am the resident of the above mention address and do private job. In the year 2021, I was working at Prabh Asra Charitable Hospital, where Vikas Sharma s/o Sh Mulchand Shastri Ward No.6 near BSK Cooler Company was working as the Senior Doctor. My duty was in Nurse Staff and due to this reason, it was with Vikas Sharma. Vikas Sharma



CRM-M-51860-2024

2

used to come in drunk state to the duty and he used to misbehave with Junior staff present at the duty but we used to ignore him due to his senior position and he took undue advantage of this behaviour and during the Corona period, when we had to stay at the hospital only, then he took objectionable photographs of me at lady staff room secretly in the year 2021. I came to know about this fact around 08/09 March 2024, when he sent the photographs to my mobile No. 7717367801 from his mobile number 8146840367 through Whatsapp in the night at around 10 pm and he said that if you do not talk with me, then, I will send these photographs to your In-Laws family but I deleted the said photographs from my mobile phone because I got scared. Then, I talked about this subject with my husband, then, he discussed the same with his uncle Sita Ram Walia, who said that I should not have deleted the said photographs. Then, we went to the house of Vikas Sharma and told the entire story to his father. On which he assured us that no such overt act will happen again in the future. But whenever, I used to go from my duty to my home then, he used to abuse me in my way and used to do objectionable gestures and he used to threaten me that if I do not obey him then he will send my photographs to my In-Laws family. On dated 13.08.2024, Vikas Sharma called from his number 8968500878 to my phone number 6239147240 and told that he is standing outside my house and said if you do not come out then, I will come to your house and show your pictures to your family. My In-Laws family due to his act went to his house many times to make him understand but it has no effect on him and this person kept on blocking my way and threatening me. Kindly take legal action against Vikas Kumar as per law. My statement has been recorded by you which is heard and admit to be correct. SD/ 6239147240 Prabhjot Kaur above attested by SD/ S/LC Sukhdeep Kaur 1301/SAS PS-City Kurali, dated 31.08.2024. Attested by SD/ HC, Jagdeep Singh 1113/SAS, PS-City Kurali dated 31.08.2024. Police proceedings: Today I HC along with lady constable Sukhdeep Kaur



CRM-M-51860-2024

1301/SASN were present at the Police Station then, Prabhjot Kaur w/o Deepak Wali R/o #275, Ward No.9, Kurali PS- City Kurali, District SAS Nagar along with her husband Deepak Walia came to the Police Station and recorded her above mentioned statement to me HC, whose statement was written word to word and same was read over to her, who were after hearing the same admitted to be correct and signed in English on it. The statement was attested by me HC and lady constable Sukhdeep Kaur No. 1301/SAS Nagar. From the statement offences u/s 75(2), 77, 78, 79, 351(2) BNS are made out. Besides this, the prosecutrix Prabhjot Kaur above has recorded in her statement about objectionable photographs sent by Vikas Kumar above through his mobile No. 8146840367 to her mobile No. 7717367801 through Whatsapp, but she has not produced any proof regarding the same and nor she has produced any photographs. After collection of FSL report regarding mobile inspection of prosecutrix and Vikas Kumar above further proceedings will be done as per the report. Statement is being sent for registration of case under above mentioned offences against Vikas Sharma s/o Sh Mulchand Shastri Ward No.6 near BSK Cooler Company Kurali District SAS Nagar to MHC PS. After registration of the case, case number be intimated. District control room and senior officers be intimated. I HC along with HC, Veerpal Singh No 1137/SASN, lady constable Sudeep Kaur No. 1309/SASN along with prosecutrix are going to the place of occurrence at PS- City Kurali at 6 pm SD/ HC, Jagdeep Singh 1113/SASN PS-City Kurali dated 31.08.2024. On receiving the above mentioned statement case is being registered under above mentioned offences against Vikas Sharma s/o Sh Mulchand Shastri Ward No.6 near BSK Cooler Company, Kurali, District SAS Nagar. Copies of FIR are being sent to Ilaka Magistrate and Higher Officials through post. CR Mohali is intimated separately, copy of the FIR along with original statement is being sent through la lady constable Amandeep Kaur No. 1769/SAS Nagar



CRM-M-51860-2024

*to Investigating Officer Constable Jagdeep Singh 1113/SASN.
Munshi PS is directed to complete the record.”*

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. He further submits that the petitioner is a highly qualified medical professional (doctor) with an unblemished career. The petitioner and the complainant were in a consensual relationship. The FIR was registered after a delay of six months. It is submitted that as per the FSL report of the phone of the petitioner, the photos were in the form of selfie which further shows the consensual relationship of the complainant with the petitioner. The petitioner has undergone actual custody of 04 months and 15 days and there is no other case registered against him.

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. As per the custody certificate, the petitioner has undergone actual custody of 04 months and 15 days and there is no other case registered against him. He on instructions submits that challan was presented on 29.10.2024 and out of 15 prosecution witnesses, none has been examined.

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

6. Admittedly, the challan was presented on 29.10.2024 and out of total 15 prosecution witness, none has been examined till date. The petitioner is in custody since 31.08.2024. Further detention of the petitioner will not serve any useful purpose and will be violation of 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.**



CRM-M-51860-2024

7. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in "*Abdul Rehman Antulay and others v. R.S. Nayak and another*", 1992(2) RCR (Criminapl) 634 observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the challan has been presented and not even a single prosecution witness has been examined till date. Therefore, this Court is of the view that further incarceration of the petitioner would not serve any purpose.

9. 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 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 they are 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



CRM-M-51860-2024

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.

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.

17.01.2025
reena

(KIRTI SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No