



CRM-M-49036-2025

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

(224)

**CRM-M-49036-2025 (O&M)
Date of Decision: 08.09.2025**

BASANT KUMAR

.....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Ms, Kusum Raj, Advocate
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.209 dated 07.08.2023, under Sections 363, 366-A of IPC, (Sections 366 and 376(3) of IPC and Section 6 of POCSO Act, 2012 added later on), registered at Police Station Nissing, District Karnal.

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

“Copy is presented To Shri SHO Sahib Police Station Nising (Karnal, it is requested that I am Sajak S/O Muzaffar R/O Gonder Gullarpur Road, I work in a poultry farm. on23/07/23 me and my wife is working on poultry farm, Basant Kumar S/O Rameshwar Das R/O Sobri, District Gaya called me on my mobile no.87368-xxxxx from his mobile no.93069-xxxxx and threatened me that ee will took his daughter. At the same time my daughter xxxxxx also left home without informing us which I investigate myself. Now I have come To Know that Basant Kumar S/O Rameshwar Das R/O Gaya of Sobri



District Gaya has taken my daughter with him. Whereas a case has been registered against him in the police station Nissing whose FIR number is 153 dated 01.06.23 U/S 365 IPC is registered, my daughter is 16 years old, please help me.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case on the statement of father of the prosecutrix, alleging therein that the petitioner enticed his daughter. It is submitted that the petitioner and the prosecutrix were well known to each other, and reliance is placed upon the statement of the prosecutrix recorded under Section 164 Cr.P.C. before the Magistrate concerned, (Annexure P-2), wherein she has not levelled any allegations against the petitioner, but has, on the contrary, disclosed the factum of their marriage and expressed her desire to stay with the petitioner. It is further submitted that complainant and the prosecutrix have been examined before the learned trial Court, both of whom did not support the case of the prosecution, and were declared as hostile witnesses. The petitioner is a young man of 24 years and has already undergone an actual custody of 1 year, 11 months and 23 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 and one more FIR has been registered against him under Section 309 of IPC. 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 1 year, 11 months and 23 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The trial of the case has not made much progress, as charges were framed on 12.02.2024 and out of a total of 21 prosecution witnesses, only four have



been examined. He 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. Admittedly, the charges were framed on 12.02.2024 and out of total 21 prosecution witness, 4 have been examined till date. The petitioner has undergone actual custody of 1 year, 11 months and 23 days. The veracity of the allegations leveled against the petitioner shall be established during the course of the 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 one more criminal case, it has been held by the Hon’ble Supreme Court in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382** 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 another case. 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. 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. 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 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.

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

(KIRTI SINGH)
JUDGE

September 08, 2025
Ithlesh

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