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

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**CRM-M-54533-2024 (O&M)
Date of decision: 26.03.2025**

ASLAM**....Petitioner****Versus****STATE OF HARYANA AND ANOTHER****...Respondents****CORAM: HON'BLE MS. JUSTICE KIRTI SINGH**

Present : Mr. Rahul Gautam, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH. J.(Oral)

This is the third petition under Section 439 of Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.196 dated 09.06.2023, under Sections 376, 363, 506 and 201 of IPC, 1860 and Section 6 of Protection of Children from Sexual Offences Act, 2012 registered at Police Station Ferozepur Jhirka, District Nuh, Haryana.

2. The first two petitions for regular bail of the petitioner stand dismissed as withdrawn vide orders dated 15.04.2024 passed in CRM-M-13890-2024 and 08.08.2024 passed in CRM-M-31094-2024.

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

“To The Honorable Station Manager, Police Station Firozpur Jhirka Subject: Application regarding legal action to be taken against the following individuals: 1. Hamid, son of Pappu, 2. Saad, son of Yusuf 3. Aslam, son of Ilyas, 4. Sajid, son of Zakir, son of Rujdar, 5. Jahool, son of Sabbir, 6. Wasim, son of Imran, 7. Tahseem, son of Imran, son of Sahab Khan 8. Haroon, son of Issi alias



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Islamuddin, all residents of Village Ghata Shamsabad, Police Station Firozpur Jhirka, District Nuh and 9. Saharukh Naharika 10. Munfed Khan Naheda.

They conspired and forcibly abducted me at gunpoint with the intent to rape, defame, and make an obscene video viral. The petitioner humbly submits the following:

1. That the petitioner and his family are peaceful people and engage in farming work. 2. That on 02-06-2023, I saw a video on Facebook that showed my sister Farzana, daughter of Habib, in which some boys from Village Ghata Shamsabad were seen raping my sister and making a video of it. 3. When I asked my sister Farzana about this, she told me that on the night of 15-12-2022, at around 12:00 a.m., she went to the toilet, which is located in her house. At that time, her neighbor Wasim, son of Imran, son of Rujdar, was talking to someone on the phone. As soon as she came out of the toilet, the accused: 1- Hamid, son of Pappu, 2- Saad, son of Yusuf, 3- Aslam, son of Ilyas, 4-Sajid, son of Zakir, son of Rujdar, 5- Jahool, son of Sabbir, residents of Ghata Shamsabad, Police Station Firozpur Jhirka, District Nuh. Forcibly grabbed her, covered her mouth with a cloth, and abducted her at gunpoint. They took her to an empty house (which belonged to Iqbal, son of Suleman). There, the aforementioned accused took turns raping her against her will, all the while making a video of it. When she resisted, they threatened her, saying they would kill her, and warned that if she told anyone or took legal action, they would make the obscene video viral on social media and ruin her family's reputation. Afterward, when she got a chance to escape, Aslam said while leaving, "We have made your video." Out of fear, she didn't tell anyone about this. Even after this incident, the accused kept threatening and blackmailing her, and continued to rape her one by one. 4. That Tahseem, son of Imran, son of Sahab Khan, Haroon, son of Issi alias Islamuddin, all residents of Village Ghata Shamsabad, Police Station Firozpur Jhirka, District



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Nuh, along with Saharukh Naharika (Aslam's driver) and Munfed Khan, son of Naheda, made this obscene video viral using their Facebook IDs, and we have evidence of this video. 5. That when I complained to the families of the accused and said that their sons had raped my sister, made a video of it, and even made it viral on social media, I explained that my sister is already married, and this incident has destroyed her life. Our family's reputation has been ruined, and we are now unable to show our faces in society. 6. That the families of the accused threatened to kill us and said that if we took any legal action, they would kill us. The accused belong to an influential family, and we fear for our lives and safety. They also threatened that if we pursued any legal action, they would do the same to our other sisters and daughters as they did to Farzana. Therefore, I humbly request that a case be registered against the accused and the strictest legal action be taken.”

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There is a delay of nearly 06 months in lodging the present FIR. He submits that the petitioner was neither involved in the commission of alleged offence nor has the phone through which the video was made been recovered from the petitioner. Even the Facebook ID from which the video was made viral is not of the petitioner and as per the final report under Section 173(2) Cr.P.C., also there is no evidence that links the said Facebook ID to the petitioner. He thereafter refers to the MLR of the prosecutrix to contend that there is nothing incriminating against the petitioner. The petitioner has undergone an actual custody of 01 year, 03 months and 04 days and there is no other case registered against the present petitioner. The material witnesses i.e. victim and the complainant have been examined.



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4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for 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 an actual custody of 01 year, 03 months and 04 days and there is no other case registered against the present petitioner. He on instructions submits that charges were framed on 21.02.2024 and out of a total of 14 prosecution witnesses, only four have been examined till date.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 20.12.2023. The material witnesses i.e. victim and the complainant have been examined. 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 14 prosecution witnesses, only four have been examined so far. Therefore, the trial in the present case will not conclude anytime soon. 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 violate 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.**

6. 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 her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

7. 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.

8. 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.

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

26.03.2025
amandeep

(KIRTI SINGH)
JUDGE

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