



CRM-M-54481-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-54481-2024 (O&M)

Decided on: 29.04.2025

Mohd. Sameem

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. R.K. Saini, Advocate
for the petitioner.

Mr. Anmol Malik, DAG Haryana

KIRTI SINGH, J. (Oral)

CRM-17136-2025

This is an application for placing on record statement of PW1/prosecutrix as Annexure P-4.

For the reasons mentioned in the application, the same is allowed and Annexure P-4 is taken on record subject to all just exceptions.

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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.213 dated 06.07.2023, under Sections 363 IPC, 1860 (Section 366-A IPC and Section 6 of Protection of Children from Sexual Offence Act, 2012 added later on) registered at Police Station Sector 31, Faridabad, District Faridabad.

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



“To the SHO, Police Station Sector 31, FBD. Sir, stated that I, Panna Lal s/o Sh. Late Gannaur Paswan, R/o Tarthani, Village Narwara, District Shivdhar, Bihar, at present residing at House No.150, House Owner Mahesh Bhati, Aitmadpur. Yesterday i.e. on 05.07.2023, at about my daughter Anki Kumari had gone from house by saying going to tailor shop, which is situated nearby us, but she did not return. My daughter is not having any phone, nor have we doubt on anyone. My daughter has gone with her own consent. She is wearing blue colour shirt and wheatish colour Salwar and white Dupatta and wearing Hawai Chappall. We were searching our daughter till now at our own level, but could not find her. Her description is fair colour, round face, thin-active body, height 5 feet, aged 14 ye years, who is studying in 6th class. My daughter be searched. Applicant Panna Lal 8130471525, 9289804420. ”

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present FIR, which was registered on the statement of the father of the prosecutrix to report her as missing. It is submitted that the material witnesses have been examined; and that the prosecutrix has turned hostile during the course of trial, to substantiate which contention, reliance is placed upon statement of the prosecutrix annexed as Annexure P-4. He further submits that the petitioner has undergone an actual custody of 01 year, 09 months and 16 days and there is no other case pending against him.

4. Per contra, learned State counsel on instructions submits that charges were framed on 04.12.2023 and out of a total of 30 prosecution witnesses only 04 have been examined. He further submits that petitioner has undergone an actual custody of 01 year, 09 months and 16 days and there is no other case pending against him. Learned State counsel does not controvert the fact that the material witnesses have been examined and the victim has turned hostile.



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5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner has undergone an actual custody of 01 year, 09 months and 16 days and there is no other case pending against him. The material witnesses have been examined and the prosecutrix has turned hostile during the course of trial. Even the trial of the case has not made much progress as out of 30 prosecution witnesses only 04 have been examined so far. The prosecutrix has turned hostile. 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

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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.

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

(KIRTI SINGH)
JUDGE

29.04.2025*reena*

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