



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

105+221

CRM-M-59949-2024 (O&M)
Decided on : 25.02.2025

JASPAL SINGH @ FAUJI

. . . Petitioner(s)

Versus

STATE OF PUNJAB

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Ramnish Puri, Advocate
for the petitioner(s).

Mr. R.S.Thind, DAG Punjab.

KIRTI SINGH, J. (Oral)

CRM-5640-2025

This is an application for placing on record Annexures P-5 and P-6.

2. Heard. For the reasons mentioned in the application, the same is allowed and Annexures P-5 and P-6 are taken on record subject to all just exceptions.

CRM-M-59949-2024

The jurisdiction of this Court under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.130 dated 04.08.2024 under Sections 65(1) of BNS and Section 4 of Protection of Children from Sexual Offences Act, 2012 , registered at Police Station Salem Tabri, District Ludhiana.

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

“Stated that I am resident of above-mentioned address. I have three children; elder son Shanker age 15 years and younger Harman, whose age is 14 years and youngest daughter Jeevika, whose date of birth is 15.04.2012 and age about 13 years. My daughter Jeevika told me that



tomorrow I am going to visit my maternal grandmother at Ludhiana; who today on 04.08.2024 at around 02.00 PM, my daughter came to Ludhiana. But my maternal grandmother was not at home; for whom till yesterday I was searching at my own, but my daughter could not be traced. That today I along with my mother Rani after leaving my work from Ghoraya factory in search of my daughter Jeevika came to Ludhiana. When we after getting off from bus at Jalandhar Bypass round-about reached near Greenland School. Then, saw that near the tea shop my daughter Jeevika was sitting alone on the side, who was very scared. That when I and my mother Rani asked from my daughter Jeevika that what are you doing here? And why are you so scared? You were going to your maternal grandmother today. Upon which, my daughter Jeevika told that I met one uncle, who told his name Jaspal Singh and said that I am going to your maternal grandmother's house, I would drop you there. That enticing me boarded on his motorcycle bearing No. PB-46-Q-4206 took me to some other place and did some wrong act with me. Upon which, I along with my mother Rani for rendering information about my daughter Jeevika going to the police station, you met at Jalandhar Bypass round-about. To you the statement got recorded. Against Jaspal Singh alias Fouji legal action kindly be taken. I recorded my statement in presence of my mother Rani, heard, correct. SD/- Poonam. Verification/- Raj Kaur. Confirmation/- Sunita Kaur L/SI Police Station Salem Tabri, Ludhiana, Date: - 04.08.2024 ”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is further submitted that the material witnesses, including the complainant and the victim have turned hostile. He further submits that the petitioner has undergone an actual custody of 06 months and 17 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. 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 06 months and 17 days and there is no other case registered against him. He on instructions submits that charges were framed on 02.01.2024 and out of a total of 15 prosecution witnesses, none has been examined till date. However, it is an undisputed fact that the complainant and the victim have turned hostile.



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

6. 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 08.08.2024. The material witnesses, including the complainant and the victim, have turned hostile. 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 23 prosecution witnesses, only one has 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.**

7. 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.

8. 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.

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

(KIRTI SINGH)
JUDGE

25.02.2025

Kavita

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