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

**237**

**CRM-M No.60720 of 2024  
Date of Decision: 23.01.2025**

Sahil

... Petitioner

Versus

State of Haryana

... Respondent

**CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Sahil Choudhary, Advocate,  
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,  
for the respondent-State.

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**MANISHA BATRA, J. (Oral)**

1. This is the second petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (For short “BNSS”) for grant of regular bail (wrongly mentioned in the head note of the petition to be the third petition) as filed by the petitioner in case arising out of FIR No.410 dated 25.12.2022 registered under Sections 6, 17 and 21 of the Protection of Children from Sexual Offences Act, 2012 (For short “POCSO Act”) at Police Station Barara, District Ambala. His previous petition bearing CRM-M No.56976 of 2024 (O&M) has been dismissed as withdrawn vide order dated 21.11.2024.

2. Adumbrated facts as emanating from the record are that the

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aforementioned FIR had been registered on the basis of complaint lodged by the complainant "BK" (name withheld) making allegations that on 24.12.2022, his minor daughter "K" (name withheld) was taken by the accused Sunita to a house by engaging her in some conversation. The present petitioner along with the Child in Conflict with Law "P" (CCIL) (name withheld) and the co-accused Ankush and Mannat were already present there. The victim was taken to a room and the petitioner, CCIL "P" and Ankush committed rape upon her. After registration of FIR, investigation proceedings were initiated. During investigation, offences under Sections 6 and 21 of POCSO Act were deleted and offence under Section 4 of POCSO Act was added. The present petitioner was arrested on 13.03.2023. Presently, he along with the co-accused is facing trial for commission of aforementioned offences.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. In her sworn deposition, the victim did not level any allegation that the present petitioner had committed any act of aggravated penetrative sexual assault upon her rather those allegations have been levelled against the CCIL "P" only. The accused Ankush whose case is on similar footing has since been extended benefit of bail. The case of the petitioner is at similar footing. No act of aiding, abetting or facilitating the commission of offence of penetrative sexual assault has been attributed to the present petitioner. He did not make any active participation in the subject crime. Accordingly, it is urged that the petition deserves to be allowed.

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4. Status report has already been filed by the respondent-State. It is argued by learned Assistant Advocate General, Haryana that there are serious allegations against the petitioner who intentionally aided the commission of subject offence by the CCIL "P" and stayed as guard and kept vigil outside the room wherein the offence of penetrative sexual assault was committed by the latter. In her sworn deposition, the victim had levelled specific allegations against him which are serious in nature. The bail petition of the co-accused Mannat against whom the similar allegations have been levelled has been dismissed. Therefore, it is urged that this petition is also liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have gone through the record.

6. The allegations against the petition are that he was present at the spot at the time when CCIL "P" had taken the victim inside a room and had committed rape upon her. He is in custody since 13.03.2023. The co-accused Ankush against whom similar allegations have been levelled has since been extended benefit of bail vide order dated 12.09.2024 passed in CRM-M-24165 of 2024. The trial has commenced but is likely to take time since as many as 13 witnesses of the prosecution are yet to be examined. The petitioner does not have any criminal antecedents. The allegations of committing rape have been levelled against the CCIL "P" and not against the petitioner rather he has been booked under Section 17 of the POCSO Act. In view of the above discussion coupled with the fact that the co-accused

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similarly situated has been extended benefit of bail and on parity also, he deserves to be given the same benefit, the petition is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned.

7. It is, however, clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

23.01.2025  
manju

(MANISHA BATRA)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |