



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

268

CRM-M-63306-2024(O&M)
Decided on : 27.05.2025

AJIB @ AJIB KUMAR

. . . Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Naresh Kaushik, Advocate
for the petitioner(s).

Mr. Anmol Malik, DAG, Haryana.

Mr. Yogesh Vashista, Advocate for respondent No.2.

KIRTI SINGH, J. (Oral)

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.326 dated 13.07.2024 under Sections 115, 126, 140(3), 351(3), 62, 75(2), 78 and 79 of BNS, 2023, registered at Police Station City Hisar, District Hisar.

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

“To. Shriman SHO. Sahib, Thana City, Hisar. Subject: Application against Ajib son Mahabir resident of village Lalauda Tehsil Tohana District Fatehabad. Shriman Ji, it is requested that I, xxx daughter of Rajbir Singh resident of village Lalauda Tehsil Tohana District Fatehabad, currently residing at Abad Police Line, Hisar, District Hisar and am a student of MSC in Guru Jambheshwar University Hisar. Today on 13/07/2024 at 08:30 am, I was going from my quarter to the said university on my scooty to give the paper in Block-C. When I crossed Barwala Chungi Hisar, the accused forcibly blocked my scooty with his Eco car and he is a resident of my village Lalauda Tehsil Tohana District Fatehabad. He got down from the car and snatched my scooty keys and my mobile phone forcefully and with the intention of kidnapping me, he started forcing me in the car and started touching my body with wrong intention and started rubbing my private parts with wrong intention and slapped me hard. When I shouted, seeing the people around coming near the car, the accused threatened to kill me and ran away from there and after this I went to the university to give my paper. When I came out after giving my paper, the accused met me in front of the university and started



following me and kept following me till the police line and while following me he was abusing me and tried to kidnap me again. When I shouted, my classmates who had come to give the paper came. Seeing them coming, the accused ran away from there and then I came home scared and told the whole incident to my family members and my family members got my medical done (copy of the medical is attached with it) and after this I have come to give an application before you sir. Therefore, you are requested to take the strictest legal action against the above accused. I would be highly grateful to you.”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is further submitted that the victim/complainant has throughout taken inconsistent and contradictory stands in her various statements during the course of trial. It is submitted that in her first statement made on 15.07.2024 under Section 183 BNSS before Area Magistrate and in her statement before Legal Aid Counsel, the complainant/ victim stated that she had filed the complaint under some misunderstanding and that she did not want any action on the same; in her second statement made under section 183 BNSS on 03.10.2024 she leveled allegations against accused that he had threatened her to publish her videos; whereas in her supplementary statement to police, she leveled allegations of rape but same were not substantiated during investigation and offence u/s 376(2)(n) and 6 POCSO Act added but dropped after investigation. Learned Counsel further submits that it is evident from the record that the complainant has remained inconsistent in her version of events. It is also submitted that both parties have known to each other since 2019. Moreover, despite summons having been issued, the complainant has not appeared to record her statement, as is evident from the zimni orders placed on record today as Annexure A-1. He further submits that the petitioner has undergone an actual custody of 06 months and 09 days and there is no other case registered against him.



4. Learned State counsel has opposed the present petition, arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate in Court, which is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 06 months and 09 days and there is no other case registered against him. He on instructions submits that charges were framed on 30.04.2025 and out of a total of 28 prosecution witnesses, none has been examined till date.

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 14.11.2024. 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 28 prosecution witnesses cited, none stand 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 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. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is

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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

27.05.2025

Kavita

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