



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

218

CRM-M-63320-2024 (O&M)
Decided on : 08.01.2025

OM PARKASH ALIAS PARKASH

. . . Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

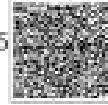
PRESENT: Mr. Bhanu Chaudhary, Advocate and
Ms. Ekta Chauhan, Advocate
for the petitioner(s).

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.64 dated 18.07.2024 under Sections 70(1), 123, 351(3) and 3(5) of BNS, registered at Police Station Women Police Station, District Hansi, Haryana.

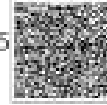
2. The present FIR was registered on the basis of an application moved by the complainant-victim, alleging that few days ago, she went to Yuduvanshi School, Garhi to inquire about the work, where she met one female sanitary worker, who gave contact number of petitioner and when she contacted him for sanitary work, he assured to get job for her and also for her husband after the holidays or her son would be admitted in the school. He further assured the complainant that she would get a room to stay in the school itself. Later, petitioner called her to the office of the school at Hansi and told that she would have to work there for one or two days and thereafter, she would get the job in the school. On 18.07.2024 at about 09.00 a.m., Parkash called her and thereafter, he along with one Anil took her in an auto to a shop at Bhagat Singh Road, Hansi, where Surender, owner of a



cycle shop was also present. All of them made her to drink beer (alcohol) and committed rape upon her one by one. Thereafter, they made her to sit in an auto and threatened her not to disclose the incident to anyone, otherwise they would kill her and her entire family.

3. Learned counsel for the petitioner, inter alia, contends that the prosecutrix is married and a matured lady of 26 years of age. Perusal of FIR (supra) indicates that the alleged incident took place in broad daylight at 09.00 a.m. in the shop of the petitioner, located in the busy market place. All the allegations levelled by the complainant are too far-fetched and unbelievable. The prosecutrix had not raised any hue and cry and according to her own version, she left the place of occurrence in an auto rickshaw without informing anyone with regard to the alleged incident. It is also contended that the petitioner has been falsely implicated in the present case. Further, now the compromise has been effected between the petitioner and the complainant-prosecutrix. The petitioner has undergone an actual custody of 04 months and 24 days and there is no other criminal case registered against him. He also submits that similarly situated co-accused have been granted the concession of regular bail by Co-ordinate Bench vide orders dated 11.11.2024 and 11.12.2024 passed in CRM-M-58341-2024 and CRM-M-61284-2024 respectively (Annexures P-5 and P-6).

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. 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 04 months and 24 days and there is no other criminal case registered against



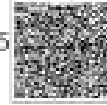
him. He on instructions from the HC Sushila submits that charges have been framed on 09.12.2024. He also submits that out of a total of 27 prosecution witnesses, none has been examined till date.

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

6. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, charges have been framed and none has been examined out of total 27 witnesses. The petitioner has undergone an actual custody of 04 months and 24 days and there is no other criminal case registered against him. Similarly situated co-accused have been granted the concession of regular bail by Co-ordinate Bench vide orders dated 11.11.2024 and 11.12.2024 passed in CRM-M-58341-2024 and CRM-M-61284-2024 respectively (Annexures P-5 and P-6). The conclusion of the trial will take a considerable time. Therefore, this Court is of the considered view that further incarceration of the petitioner will not serve any purpose.

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

08.01.2025

Kavita

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