



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

221

**CRM-M-64774-2024(O&M)
Decided on : 15.01.2025**

JONI ALIAS JONY

... Petitioner(s)

Versus

STATE OF HARYANA

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Sanchit Punia, Advocate for the
petitioner(s).

Mr. Brijesh Sharma, AAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.206 dated 17.07.2022 under Sections 376, 328, 457 and 506 of IPC and Section 4 of POCSO Act, 2012, registered at Police Station Bass, District Hansi.

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

“To, The SHO Sir, Police Station BASS, Hisar Subject-Application regarding rape of my daughter. Respected Sir, it is humbly requested that that I Suman wife of Satyawan Caste Dhanak am resident of village Kheda Rangdan. I am running a Retail Shop at my home. On dated 15-07-2022 at around 04: 00 PM, my daughter Khushbu aged 15 years was at my shop, at that time, son Rajbir caste Johnny Dhanak resident of village Ugalan came there on the pretext of buying goods and finding my daughter Khushbu alone, he asked her to befriend him, to which my daughter refused, then he said to my daughter that if she tells this to anyone at home, I will kill your father and my husband works as a watchman at night in Dharmakhedi school. And at night we stay alone at home. And after that at night Johnny son Rajbir resident of Ugalan came to my house by jumping over the wall. When we were all sleeping, he made us unconscious by making us smell some intoxicating substance and after raping my daughter, he ran away. When I woke up in the morning on dated 16-07-2022, my daughter was scared and I asked my daughter what happened but she could not tell



anything and then today on dated 17-07-2022, when I asked my daughter lovingly, she told the whole thing that happened to her, so please take the strictest legal action against Johnny son of Rajbir resident of Ugalan. It will be your kindness. SD/- Suman, applicant Suman wife Satyawar 9728986233 village Kheda Rangdan Hisar Dated 17-07-2022.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner, an 18-year-old boy, has been falsely implicated in the present case. The allegations mentioned in the FIR are vague, devoid of specific details and are not supported by any material evidence. He further submits that the petitioner has undergone an actual custody of 02 years, 05 months and 26 days and is not involved in any other criminal case. He places reliance on the judgment passed by Hon’ble Supreme Court in “***Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh***” (SC) : ***Law Finder Doc Id #2616305*** and judgments passed by Co-ordinate Bench in “***Simranjit Singh @ Simar Vs. State of Punjab***” :***Law Finder Doc Id#2669273, Amritpal Singh Sekhon Vs. State vide CRA-D-371-DB-2013 and “Devi Swarrop Vs. State of Himachal Pradesh” Law Finder Doc Id# 2169741.***

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 02 years, 05 months and 26 days and he is not involved in any other criminal case. He on instructions from the concerned investigating officer submits that charges were framed on 18.11.2022 and out of a total of 18 prosecution witnesses, only six have 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, investigation of this case is complete and out of a total of 18 prosecution witnesses, only six have been examined till date. The petitioner has undergone an actual custody of 02 years, 05 months and 26 days and there is no other criminal case registered against him. The conclusion of trial will take a considerable period and further detention of the petitioner will not serve any useful purpose and will be violation of 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. 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

15.01.2025

Kavita

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