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

Sr. No.218

**CRM-M-65257-2024 (O&M)
Date of decision : 13.01.2025**

Charanjeet Kaur

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Kamal Jindal, Advocate, for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.687 dated 28.12.2022, under Sections 363 & 366-A IPC along with Sections 323, 341, 343, 354-A, 354-C, 354-D, 372, 376(2)(n) & 376-D IPC (Sections 6, 10 & 12 POCSO Act added later on), registered at Police Station Rania, District Sirsa.

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

“To, SHO Kariwala, Police Station Rania, Sir I request that I am Balkar Singh son of Sohan Singh resident of village Bani and do manual labour work. I have four children, one of whom is Akashdeep aged 17 years, three girl namely Simran Kaur aged 15 years, Resham aged 13 years, Suman Kaur aged 10 years. On 27.12.2022, at around 2/2.30 PM in the day, I my son-in-law Bagga Singh and my daughter Simran Kaur were at home, then girl Simran said that I have to go to the shop, saying this my daughter Simran went to the shop. Then even after waiting for a long time, my daughter Simran Kaur did not return home. I and my wife Sumitrara Kaur also searched for

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my daughter Simran Kaur in the neighbourhood, but my daughter Simran Kaur was not found. During the search, I came to know that some unknown person has taken my daughter Simran Kaur with him by making some excuse and it is Charanjeet Kaur village Bani, who has helped in elopement of my daughter Simran Kaur. My daughter has long face, dark complexion, height about 5ft 3 in., artificial top in ear, bangle in right hand, painted yellow salwar suit on body, shoes on feet. You are requested to make an inquiry from Charanjeet Kaur resident of village Bani and complete the investigation and get my daughter Simran Kaur and take legal action against the unknown person.”

3. Learned counsel for the petitioner *inter alia* submits that it is alleged that the petitioner had helped an unknown person to entice the victim away. The petitioner has been falsely implicated in this case. An another FIR No.236 dated 12.04.2024 has been registered at Police Station Rania, District Sirsa, Haryana on the same set of allegations regarding the kidnapping of the same victim. He further submits that co-accused has been granted bail vide order dated 03.09.2024 (Annexure P-13) passed by a Coordinate Bench of this Court in CRM-M-41438-2024. The petitioner has undergone an actual custody of 01 year, 11 months and 21 days and is not involved in other criminal case.

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 and as per custody certificate, the petitioner has undergone an actual custody of 01 year, 11 months and 21 days,

however, he submits that there is no other criminal case registered against

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her. He on instructions from the concerned investigating officer submits that charges were framed on 19.05.2023 and out of a total of 22 prosecution witnesses, none has been examined till date. He also contends that the petitioner has been specifically named in the FIR and in view of the serious allegations against the petitioner, she is not entitled to the concession of regular bail.

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

6. Admittedly, the petitioner has undergone actual custody of 01 year, 11 months and 21 days and there is no other criminal case registered against her. The investigation of the case is complete. None of the prosecution witness has been examined till date. Similarly situated co-accused has been granted bail vide order dated 03.09.2024 (Annexure P-13) passed by a Coordinate Bench of this Court in CRM-M-41438-2024.

A two Judge Bench of Hon'ble Supreme Court in **Satender Kumar Antil Vs. CBI (2022) 10 SCC 51**, with respect to prevailing conditions of undertrial prisoner in India has observed:-

'6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it

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certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus, to be used sparingly. In a democracy, there can be an impression that it is a police State as both are conceptually opposite to each other.”

7. Deprivation of personal liberty without ensuring speedy trial is not consistent with Article 21. While deprivation of personal liberty for some period may not be avoidable, period of deprivation pending trial/appeal cannot be unduly long. The Apex Court in **“Abdul Rehman Antulay and others v. R.S. Nayak and another”, 1992(2) RCR (Criminal) 634** observed that Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial.

8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. The trial of the case would take a considerable time. Therefore, this Court is of the considered view that further incarceration of the petitioner will not serve any purpose.

9. 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 her 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.

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(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 him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

10. 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.

11. 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 miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

13.01.2025

Ramandeep Singh

Whether speaking / reasoned

Whether Reportable

Yes/No

Yes/No