



CRM-M-64987-2024(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-64987-2024(O&M)

Decided on: 23.05.2025

Harmanpreet Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Amit Arora, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

KIRTI SINGH, J. (Oral)CRM-22074-2025

This application under Section 528 of BNS has been filed for incorporating Section 6 of POCSO Act in the head note and prayer clause of the main petition.

2. In view of the averments made in the application, the application is allowed. Registry is directed to add Section 6 of POCSO Act, in the head note and prayer clause of the main petition.

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3. The jurisdiction of this Court has been invoked under Section 483 of BNSS for grant of regular bail to the petitioner in case FIR No.114 dated 11.11.2021, under Sections 376, 506 IPC and Section 8 of POCSO Act (Section 6 of POCSO Act added lateron), registered at Police Station Verowal District Tarn Taran.

4. The contents of the aforesaid FIR are reproduced herein below:-

*“Statement of (name withheld) daughter of Ajit Singh
resident of village Darapur Police Station Verowal District*



Tarn Taran aged about 15/16 years. It is stated that I am resident of above-mentioned address and is studying in Xth Class in Government Girls Senior Secondary School, Verowal. We are four brother and sisters and residing in our house and my mother has already got expired. My eldest sister Paramjit Kaur is already married and younger to her is Lovepreet Singh and younger to him is my sister Kiranjit Kaur. and I am the youngest. My sister Kiranjit Kaur is residing in the house of my maternal uncle Mangal Singh son of Roop Singh. We all three members are residing in our house ad my father Ajit Singh used to do the labour work and my brother is used to work as Mason. I was alone at my house and then on dated 06.07.2021 during the day at about 12 pm Harmanpreet Singh son of Satnam Singh came to our house and at that time I was sleeping and he came to our house but I could not got to know and he closed the door of the room and without my consent committed rape upon me. He got hold of me from my arms with force and stated to me that in case I will disclose anything to anyone then he will kill me. In this manner about 3-4 times he forcibly committed the act with me and I because of fear did not disclose anything to anyone. Yesterday on dated 10.11.2021 I fell down in my house due to dizziness and my father called my paternal aunt Balwinder Kaur wife of Balwinder Singh and she took me along with her to the doctor and nurse disclosed to my paternal aunt Balwinder Kaur while giving medicine that I am pregnant. On coming to know I disclosed the entire incident to my paternal aunt Balwinder Kaur and my father and my paternal uncle Balwinder Singh and they after taking me along were coming to the Police Station and you met us on the way. Thus, the strict legal action may kindly be taken against Harmanpreet Singh abovesaid. Statement has been got recorded which has been read over and same is admitted to be true. Statement by: XXXXX abovesaid.”

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, which has been registered on the statement of the prosecutrix. It is submitted that the first incident of the



alleged occurrence is stated to have occurred 06.07.2021, however, the present FIR was got lodged only on 11.11.2021, after a delay of about four months. There is no incriminating evidence against the petitioner and even the FSL and DNA reports, which have been placed on record by the learned State counsel along with the status report, have turned out in the favour of the petitioner, since his DNA profile is not consistent as of being the biological father of the child of the prosecutrix. Moreover, the petitioner has already undergone an actual custody for a period of 3 years, 6 months, and 5 days and has no other case registered against him.

6. *Per contra* learned State counsel has opposed the bail and submits that the petitioner was actively involved in the commission of the alleged offence. He has filed custody certificate and reply in Court today and the same are taken on record. As per custody certificate, the petitioner has undergone actual custody of 03 years 06 months and 05 days. He on instructions from investigating officer submits that charges were framed on 09.02.2022 and out of total of 23 prosecution witnesses; 17 have been examined till date. He, however, submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

8. From a perusal of the case in hand, it transpires that the petitioner is behind the bars since 15.11.2021 and has no other case registered against him. Investigation is complete. 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 charges were framed on 09.02.2022



and out of total of 23 prosecution witnesses, 17 have been examined. The material witnesses have been examined. The DNA profile does not match with the petitioner. 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.***

9. Accordingly, 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 she 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/her 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.

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

(KIRTI SINGH)
JUDGE

23.05.2025
Kapil

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>