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

Sr. No.211

**CRM-M-65352-2024(O&M)
Date of decision : 28.04.2025**

Vicky

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Abhimanu, Advocate, for the petitioner.

Mr. Anmol Malik, DAG, 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.409 dated 28.04.2024 under Sections 365 IPC (Sections 506 IPC and Section 4 of POCSO Act added later on), registered at Police Station Palla, District Faridabad.

2. The contents of the FIR is reproduced below:-

'To the SHO, Police Station Palla, Faridabad, it is requested that I, Suresh Sharma S/O Satbir Sharma am a resident of H.No. 333, Gali No. 8, Surya Vihar Part 3. Near Mukal Builder, Sehatpur, Faridabad. I have three children, out of which the second one is a daughter: She is 16 years 6 months old and studies in 12th class in Government School Sarai Khwaja, Faridabad. Today on 28.04.24 I, my daughter and my son were at home and my wife had gone to her parental home. At around 1.1 AM I left my son and the girl at home and went to Amwalpur for my work. After that, when I returned home at around 11.30 AM, I found the house locked. On enquiry, I came to know that the girl had sent the boy (brother) to her maternal

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uncle's house. Thereafter, without informing me (the girl), she had taken clothes, bags and about 18/20 thousand rupees from the house. Till now I have searched at many places but could not find her anywhere. She has the phone number 9716415645. I suspect that some unknown person has kidnapped my daughter and has hidden her at some unknown place with the intention of committing some crime. My daughter should be searched and recovered. Applicant SD SURESH DATE 28.04.24 9312543656 XXXXXX'

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present FIR on the statement of the prosecutrix regarding an occurrence which is alleged to have taken place on 15.03.2024. It is submitted that even as per the MLR of the prosecutrix, there is no mark of external injury on her person. Further, the material witnesses i.e. the prosecutrix and her father (complainant) has been examined. He further submits that the petitioner has undergone an actual custody of 11 months and 28 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 today and the same is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 11 months and 28 days and is not involved in any other criminal case. He, on instructions from the concerned investigating officer, submits that charges were framed on 03.09.2024 and out of a total of 17 prosecution witnesses, 02 have been examined till date. He however, submits that in view of the

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serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

6. A perusal of the case in hand transpires that the petitioner is behind the bar since 29.04.2024. Investigation is complete. The final report under Section 173 Cr.P.C. has been presented before the concerned Court and trial of the case has not made much progress as out of 17 prosecution witnesses, only 02 witnesses have been examined so far. The material witnesses have been examined. The petitioner has undergone a period of 11 months and 28 days and is not involved in any other criminal case. 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 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:-

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

(KIRTI SINGH)
JUDGE

28.04.2025

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No