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

Sr. No.213

CRM-M-115-2025 (O&M)

Date of decision : 28.04.2025

Sagar

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Balkar Singh, Advocate, for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS, 2023) has been invoked for grant of regular bail to the petitioner in case FIR No.302 dated 12.08.2024 under Sections 137(2), 61(2) & 96 of BNS, 2023 registered at Police Station Gohana Sadar, District Sonapat.

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

"To SHO Sahab Police Station Sadar Gohana. Sir ji, it is submitted that I Rajkumar @ Raju S/o Zile Singh, am resident of Village Kasandi, District Sonapat. I have One son and two daughters. My younger daughter, whose name is Rishu and the age of Rishu is 14½ years. Today Dated 12.08.2024 time around 2.30 AM in the Morning, My Son Rohit woke up me and told that Rishu is not at home. Thereafter, I and my son quickly came out from the house and looked for Rishu around. After that in the same time, in the street in front a Splendor Motorcycle, whereon one boy and my daughter Rishu were sitting. Two other boys were also standing there near Motorcycle. That when I called Rishu then the boy run away by

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taking my daughter on Motorcycle and other two boys started running on foot from the spot. I and my son ran and caught one boy. But he was trying again and again to get free from us and during struggle that boy was also injured. After which the nearby people were gathered and we all have caught him with difficulty and asked his name then he told his name Karan resident of Kaithal. Then we called the police and handed over the Karan to police. Karan and his two other accomplice have kidnapped my daughter by luring her. It is requested that Karan be investigated and name of two other boys were also be found out and my daughter Rishu be recovered and strict to strict legal action be taken against Karan and his two accomplice. SD Rajkumar 8930655763 DT 12-8-2024."

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case being the friend of the main accused who is alleged to have kidnapped the victim. Learned counsel submits that the petitioner was not named in the FIR, but has been nominated as an accused on the basis of disclosure statement of the co-accused. Further, no specific role has been attributed to the petitioner, as can also be seen from the statement of the prosecutrix made under Section 183 of BNSS, 2023. He submits that the petitioner has undergone an actual custody of 08 months and 08 days and is not involved in any 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 08

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months and 08 days and is not involved in any other criminal case. He on instructions from the concerned investigating officer submits that charges were framed on 27.11.2024 and out of a total of 20 prosecution witnesses, none has 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.

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 20.08.2024. 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 out of 20 prosecution witnesses, no witness has been examined so far. The petitioner has undergone a custody period of 08 months and 08 days and has no other criminal case registered against him. 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

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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 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