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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-66893-2025

Date of Decision: 04.12.2025

KAMLESH

... PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

....RESPONDENTS

CORAM : HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Anas Ahmed, Advocate
for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.134, dated 01.05.2025, registered under Sections 87, 65(1), 137(2) of BNS, 2023 and Section 4 of POCSO Act, 2012 at Police Station Sector 40 Gurugram, District Gurugram.

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

"In the service of Sir SHO Sahib, Police Station Sec. 40, Gurugram Sir, my request is that I am Axxxx Mxxxxx, SO Txxxx Mxxxxx, RO Banwar, Police Station Daudpur, District (Saran) (Chapra), Bihar. I live with my family in Deepak's house Kanhai Gurugram. I have children, two boys and two girls. My younger daughter Axxxxxx has gone away from home on 30.04.2025 at around 3 am in the morning without informing me. Whose age is around 16 years. My daughter has gone away from home without informing me. My daughter was wearing a red T-shirt and blue jeans and was wearing blue slippers. My daughter's height is 5'2



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inches. My daughter's appearance is fair complexion, slim, agile, strong physique, 5'2 inches. Please take police action and help in finding my daughter Axxxxxx. It will be highly appreciated. SD Axxxx Mxxxxxx Applicant."

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present FIR, which was registered on the statement of the father of prosecutrix, to report her daughter as missing. It is submitted that the families of the petitioner and the prosecutrix had been residing in the same vicinity and had developed animosity, which was the reason of the implication of the petitioner in the instant case. Learned counsel submits that there is no direct evidence that points towards the complicity of the petitioner. Even the prosecutrix has not supported the version of the prosecution before the learned trial Court and has turned hostile. In fact, it was stated by her in her deposition that the naming of the petitioner by her in her statement recorded under Section 183 BNSS was due to family pressure. The petitioner, presently aged around 20 years, has already undergone a prolonged custody period of 07 months and 02 days as an undertrial. There is no other case registered against him.

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 the custody certificate in Court today. As per custody certificate, the petitioner has undergone an actual custody of 07 months and 02 days. There is no other case registered against him. Investigation is complete. The charges were framed on 04.09.2025 and out of a total of 20 prosecution witnesses, only 01 has been examined. However, he submits that in view of



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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. Admittedly, the charges were framed on 04.09.2025 and out of total 20 prosecution witnesses, only one stands examined, i.e., the victim, who has not supported the case of prosecution. The petitioner has undergone actual custody of 07 months and 02 days, and there is no other criminal case registered against him. The veracity of the allegations leveled against the petitioner shall be established during the course of the 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:-

- (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.

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

04.12.2025
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(KIRTI SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No