

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

221-

CRM-M-31361-2025**Date of decision: 04.07.2025**

Kamla Bhatti @ Baggi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vipin Mahajan, Advocate for the petitioner.
(through hybrid mode)

Mr. Jaypreet Singh, DAG, Punjab.

SUMEET GOEL, J (ORAL)

1. Present petition has been filed under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.36 dated 22.03.2025 under Sections 326(g), 61(2), 303(2), 317(2) of BNS, 2023 and Section 3(a) of Explosive Substance Act, 1908 registered at Police Station City Batala, Police District Batala, District Gurdaspur.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Head Munshi, Police Station City Batala, Today I ASI was present at the police station. SI Sukhjinder Singh, Station House Officer, Police Station City Batala, received a mobile phone instruction that someone's house in Kot Gali Hathi Gate Batala has suffered damage due to fire. Please reach the ASI Chowk Hathi Gate Batala. Where SI Sukhjinder Singh, Station House Officer of Police Station City Batala, along with his fellow officers and PCR officers ASI Ashwani Kumar 3121/Batala, ASI Roop Lal No. 2705/Batala met, the PCR officers said that we were on duty last night and came to know from the people that today at around 3-00AM, a fire broke out



in the house of Bunty son of Subhas Kumar Bhatti, resident of Kot Gali Hathi Gate Batala, due to which a lot of damage has been done to the belongings, furniture, etc. in the house and the house has caught fire. However, with the help of five people, the fire was extinguished. I ASI reached the house of the Bunty and saw that the furniture, clothes, beds, AC, etc. Inverter and doors and others materials were burnt, which was informed to the FSL team and fingerprint team to come to the spot to find out the cause of the fire. After some time, FSL officer Mr. Ravi Sharma along with his team and fingerprint officer HC Shamser Singh No. 24 FPB, CT Mandeep Singh No. 1692/Batala came. Who started their own action and the action of E-Saksa was implemented by the ASI. After taking his action, the FSL officer Mr. Ravi Sharma put three different parcels of ash taken with the evidence in plastic boxes and marked one plastic box with ash taken from the spot mark (1), one plastic box with ash taken from the spot mark (2). One plastic box with ash taken from the spot mark (3). The said three plastic boxes were handed over to me. That I ASI put my word stamp CS on the three parcels and took into possession of police. That no family member was present bin the house. That it is found from the circumstances that back door of the house was broken. That some unknown persons have put house on fire of bunty to cause danger to human life. If someone was present in house it could cause damage to human life and people around this house. That some unknown persons have committed offence under section 326(g) by putting house on fire. On which ruka is written and sent to police station.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 01.04.2025. Learned counsel for the petitioner has further submitted that the petitioner is not named in the FIR and her name has surfaced during investigation on the basis of a secret information. It is submitted that no recovery has been effected from the petitioner. Learned counsel further submitted



that the investigation in the present case is complete and no useful purpose would be served by keeping the petitioner behind bar any longer.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 01.04.2025 whereinafter investigation was carried out & challan was presented on 20.06.2025. Total 15 prosecution witnesses have been cited and none has been examined till date. It is indubitable that the culmination of the trial, but of course, will take its own time. The contentions raised by rival parties give rise to debatable issues which shall be ratiocinated upon during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, *lest* it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence.

7. The petitioner is a lady aged about 37 years hence her bail petition ought to be considered in view of proviso to Section 480(2) BNSS. It is pertinent to mention herein that the proviso to Section 480 BNSS, 2023 is *para materia* with proviso to Section 437 Cr.P.C., 1973. In this regard, it would be apposite to refer herein to a judgment passed by this Court on 14.03.2024 in CRM-M-11503-2024 titled as '**Ravinder Kaur Vs. State of Punjab**' (dealing with proviso to Section 437 Cr.P.C.), relevant thereof reads as under:

*"It would be apposite to refer herein to the dicta of a judgment of the Hon'ble Supreme Court in a case of '**Satender Kumar Antil Vs. Central Bureau of Investigation & Anr., 2022(10) SCC 51**', which held as under:*



51. Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offenses are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

xxxx xxxx xxx

58. Section 437 of the Code empowers the Magistrate to deal with all the offenses while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be. The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances contained therein. What is required is the consideration per se by the court of this proviso among other factors.”

As per the custody certificate dated 03.07.2025 filed by the learned State counsel, the petitioner has suffered incarceration for more than 02 months and 29 days.

As per the said custody certificate, the petitioner is stated to be involved in other cases also namely FIR No.290 dated 24.12.2012 registered under section 21/22/61/85 of NDPS Act at P.S City Batala, FIR No.123/2009 under Section 323 IPC registered at P.S City Batala, FIR No.226 dated 12.10.2012 under Section 61/1/14 of Excise Act registered at P.S City Batala and FIR No.88 dated



10.06.2011 under Sections 452,323,324,326,427,148,149 IPC registered at P.S City Batala. Indubitably, the antecedents of a person are required to be accounted for while considering a regular bail petition preferred by him. However, this factum cannot be a ground sufficient by itself, to decline the concession of regular bail to the petitioner in the FIR in question when a case is made out for grant of regular bail qua the FIR in question by ratiocinating upon the facts/circumstances of the said FIR. Reliance in this regard can be placed upon the judgment of the Hon'ble Supreme Court in **Maulana Mohd. Amir Rashadi v. State of U.P. and another, 2012 (1) RCR (Criminal) 586; a Division Bench judgment of the Hon'ble Calcutta High Court in case of Sridhar Das v. State, 1998 (2) RCR (Criminal) 477 & judgments of this Court in CRM-M No.38822-2022 titled as Akhilesh Singh v. State of Haryana, decided on 29.11.2021, and Balraj v. State of Haryana, 1998 (3) RCR (Criminal) 191.**

Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

8. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.*
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.*
- (iii) The petitioner shall not absent himself on any date before the trial.*
- (iv) The petitioner shall not commit any offence while on bail.*



(v) The petitioner shall deposit his passport, if any, with the trial Court.

(vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaq Magistrate.

(vii) The petitioner shall not in any manner try to delay the trial.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

10. Ordered accordingly.

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

July 04, 2025
manoj

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No