



CRM-M-53896-2025

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

229

CRM-M-53896-2025
Date of decision 26.11.2025

KAMLESH KAUR

.....PETITIONER

Versus

STATE OF PUNJAB

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Ms. Suman Kumari, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 143, 61(2) of BNS, 2023 and Section 81 of Juvenile Justice (Care and Protection of Children) Act, 2015, the FIR No.157 dated 27.06.2025, has been lodged in Police Station Mandi Gobindgarh, District Fatehgarh Sahib. With regard to commission of above mentioned offence, the petitioner has been arrested. She is in custody, and therefore, craving for the concession of bail. This is first petition for bail, filed by the petitioner, under Section 483 of BNSS.

2. In nut-shell, the facts emerging from record are that the FIR of this case came into being on the report (ruqa) of Sub Inspector Dharampal, Police Station Mandi Gobindgarh, District Fatehgarh Sahib. It was reported by the above-named police officer that on 27.06.2025, when he was on patrolling duty alongwith his team, an informer gave a tip-off that Mandeep Kaur wife of



Taljinder Singh had delivered a child (male) on 23.06.2025 in Deep Hospital Mandi and that father of newly born child Taljinder Singh had entered into a deal with ASHA worker Kamlesh Kaur and her husband Bhim Singh for the sale of above-mentioned child, and that in the above-mentioned deal midwife Charan Kaur and Amandeep Kaur @ Amrita were also involved. It was also informed by the informant that ASHA worker Kamlesh Kaur and midwife Charan Kaur alongwith newly born child had gone to Khanna Bus Stand, where Amandeep Kaur @ Amrita met them and thereafter the all three went to patrol-pump near Bus Stand Doraha to handover the child to Rupinder Kaur daughter of Raj Kumar and Beant Singh, for a sum of Rs.4,00,000/-.

3. It is the case of the prosecution that in view of above-mentioned information, it was found that the petitioner and other accused were involved in child trafficking and therefore FIR for the commission of offence punishable under Sections 143, 61(2) of Bharatiya Nagrik Suraksha Sanhita (hereinafter referred as BNS) and Section 81 of Juvenile Justice (Care and Protection of Children) Act, 2015 was lodged and further investigation taken up.

4. The reply has been filed by learned State counsel. The same be taken on record.

5. Heard.

6. It has been contended by learned counsel for the petitioner that a false story has been cooked up by the police officer with regard to child trafficking, and that the petitioner is innocent having no concerned, whatsoever, with the alleged sale of child by his natural parents. While claiming that the petitioner has already faced a lot of incarceration for being in custody for a period of more than 4½ months, and that trial is not likely to be



concluded in near future, it has also been contended by learned counsel for the petitioner that in the present case a very strange story has been set out by the prosecution which is not worth believable. As per learned counsel for the petitioner the entire allegations against the petitioner are with regard to sale of child to Rupinder Kaur and Beant Singh, but in a very strange manner the facts have been twisted that Rupinder Kaur and Beant Singh had given fake currency notes to Kamlesh Kaur, Charanjeet Kaur @ Charan Kaur and Amandeep Kaur @ Amrita. According to learned counsel for the petitioner when transactions of money had not taken place, the allegations with regard to child trafficking against the petitioner are not made out.

7. In addition to above, it has also been contended by learned counsel for the petitioner that the petitioner is a female, who has already suffered incarceration for a period of more than 4½ months, and that investigation in this case is already complete and therefore, nothing is left to be recovered from the possession of petitioner.

8. *Per contra*, the learned State counsel has contended that the allegations against the petitioner are with regard to active participation in child trafficking, and that the offence committed by the petitioner is triable by the Court of Sessions and the maximum punishment prescribed for the offence is imprisonment for life. According to learned State counsel in view of gravity of offence and the active participation of petitioner, she is not entitled for the benefit of bail.

9. The record has been perused carefully.

10. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration, before



arriving at any decision with regard to present petition for bail: -

- i) that the petitioner is already in custody for a period of more than 04 months and 22 days;
- ii) that investigation in this case is already complete and nothing is left to be recovered from the possession of petitioner;
- iii) that during the course of investigation, no valid currency notes with regard to sale of child have been recovered;
- iv) that the trial is not likely to be concluded in near future;
- v) that the petitioner has no criminal history;
- vi) that being a female, the petitioner deserves a conceded view;
- vii) that since nothing is left to be recovered from the possession of the petitioner, detention of petitioner in judicial lock-up is not likely to serve any useful purpose;
- viii) that neither the child, who was subject matter of child trafficking was recovered from the possession of petitioner nor any proceed of crime with regard to above-mentioned deal;
- ix) that the only evidence collected against the petitioner is the disclosure statement of the petitioner, which was recorded when the petitioner was already in police custody. Since the above-mentioned disclosure statement did not lead to discovery of any fact pertaining to present case, there is a big question mark with regard to admissibility of above-mentioned statement in evidence. Except the above-mentioned disclosure statement, there is no connecting evidence to prove the involvement of the petitioner in the commission of crime.
- x) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- xi) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.



11. With regard to the legal aspect involved in the instant case, the principles of law laid down by the Hon'ble Supreme Court in the case of ***"Dataram versus State of Uttar Pradesh and another", 2018(2) R.C.R. (Criminal) 131***, are relevant, wherein it has been observed that *"a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case"*.

12. The principles laid down by the Hon'ble the Supreme Court of India in the case of ***'Satender Kumar Antil Vs. Central Bureau of Investigation and Another', 2022 LiveLaw (SC) 577***, are also relevant in this case. In the abovementioned case, it has been observed that *"the rate of*



conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

13. Recently, in the case of **‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2022 INSC 222**, the Hon’ble Supreme Court of India has observed that *“if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”*. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that *“delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”*.

14. Therefore, to elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to the accused as mandated by Hon’ble Apex court in **“Balwinder Singh versus State of Punjab and Another”, SLP (Crl.) No.8523/2024**.



15. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration, it leads to a conclusion that the petitioner is entitled for the benefit of bail, and that the present petition deserves to be allowed.

16. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on her furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court, subject to the following conditions:-

- (i) that 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 to disclose such facts to the Court or to any other authority.
- (ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- (iii) that the petitioner shall not leave India without prior permission of the trial Court.

17. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to her shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

(SURYA PARTAP SINGH)
JUDGE

26.11.2025

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