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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

220/1

CRM-M-61318-2025(O&M)
Date of decision: 12.11.2025

BHIM SAIN

....Petitioner

Versus

STATE OF PUNJAB AND ANR

...Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Mandeep Singla, Advocate
for the petitioner(s).

Ms. Aakanksha Gupta, AAG Punjab.

Mr. Pushp Jain, Advocate for respondent No.2.

KIRTI SINGH. J.(Oral)

The jurisdiction of this Court has been invoked under Section 483 BNSS Act for grant of regular bail to the petitioner in case FIR No.150 dated 07.08.2025, under Sections 64, 65 of BNS, 2023 and Section 70(2) of BNS, 2023, Section 4 and Section 6 of POCSO Act added later on, registered at Police Station City-2 Mansa, District Mansa.

2. The contents of the aforesaid FIR are reproduced herein below:-

“Statement of Shivshankar Sharma son of Harish Chand Sharma, resident of Ward No.02, Gali No.04, Guru Teg Bahadur Nagar, Mansa, aged about 35 years, mobile No.xxx. Stated that I am resident of above said address, I work as a driver, I was married to xxx, resident of Bhikhi and from our loins, two daughters were born, xxx, aged 16, and xxx, who is studying in class 8th, aged about 14 years. Due to quarrels with my wife many times, a compromise was arrived at P.S. Bhikhi because I used to restrain my daughters from going out with my wife. Upon which, my wife had forbidden from taking them out



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without informing me. But I used to go out for daily work and when I returned home, my daughter xxx would remain silent, whom I asked many times what happened to my daughter. She said with her full heart that she wanted to tell me something for a long time, but she could not tell me. I asked her by taking in full confidence, upon which my daughter xxx told me that last 20/25 days ago in the month of July, our neighbour xxx wife of Vijay Kumar, resident of Manga called her home on the pretext of some work and my daughter went there, where Bhim Sain son of Radhe Sham, resident of Sidhu Hospital, Mansa was already present and she made my daughter xxx sit in a separate room with Bhim Sain and went out of the room herself. Then Bhim Sain locked the door and forcibly made physical relation with my daughter and later on, xxx threatened my daughter that if she tells anyone about this incident, then she will not let her be married and she also told my daughter that Bhim Sain also pays her school fees. Thereafter, xxx and her sister xxx wife of Chiranji Garg, resident of Ward No.02, Mansa also called my daughter to their house one day and by introducing her Mandeep Singh alias Babbu, resident of Jawaharke made forcible physical relation with her and Amandeep Singh alias Aman, resident of Kot Da Tibba, Mansa has also had physical relations with my daughter many times. Amandeep Singh studies at Gandhi School, Mansa. Now, they were threatening my daughter, but today, my daughter has told me the entire facts. I was coming to inform you about the rape committed on my daughter xxx, but you have met me. Legal action may kindly be taken against the said persons. I got recorded my statement before you, read it and heard it, which is correct.”

3. Learned Senior counsel for the petitioner submits that the implication of the petitioner in the instant case is admittedly a result of extraneous reasons. In fact, the prosecutrix in her supplementary statement made before the investigating agency categorically stated that the petitioner had been wrongly named by her father. In fact, the individual who had committed alleged offence was not the petitioner but the one Lakhpatt Garg. Similar was the subsequent statement made by the complainant before the investigating agency. Upon taking into consideration the statements, and on not finding any evidence to even prima facie establish a case against the petitioner, the Investigating Officer, after due



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verification of the facts, has declared the petitioner innocent vide Rapat No.17 dated 26.08.2025. Further, there is no medical evidence on record that indicates towards the complicity of the petitioner. The petitioner, aged 46 years has undergone an actual custody of 03 months and 01 day. He has clean antecedents and there is no other case registered against him.

4. Per contra, learned counsel for respondent No.2 as well as the learned State counsel, have vehemently opposed the submissions advanced by learned counsel for the petitioner. Learned State counsel has filed a short reply dated 11.11.2025 along with the custody certificate, which are taken on record. As per the same, it is submitted that on 18.08.2025, the complainant/respondent No.2 got his statement recorded before the Investigating Officer, wherein he stated that he concurs with the supplementary statement as also the statement made by his daughter/victim before the learned Illaqa Magistrate, Mansa, under Section 183 of the BNSS, 2023, wherein she had specifically stated that Bhim Sain (present petitioner), resident of Mansa, has not committed any wrongful act with her. Subsequently, vide DDR No.17 dated 26.08.2025, the Investigating Officer declared Bhim Sain (present petitioner) innocent in connection with the present case/FIR.

4.1 Learned State counsel submits that as per custody certificate, the petitioner has undergone an actual custody of 03 months and 01 day and there is no other case registered against the present petitioner. She on instructions, submits that the challan has been presented against the co-accused persons on 04.10.2025, whereas the present petitioner was declared innocent in the instant FIR vide the aforementioned DDR No.17 dated 26.08.2025.



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5. Heard the rival submissions made by learned counsel for the parties.
6. From a perusal of the case in hand, it transpires that the petitioner is behind the bars since 09.08.2025. Investigation is complete. The present petitioner was declared innocent in the instant FIR vide the aforementioned DDR No.17 dated 26.08.2025, and his name was kept in column No.2 of the challan, which was presented against the co-accused persons on 04.10.2025. The charges against accused persons are yet to be framed. 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:-
- (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 application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

12.11.2025
Kavita

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