



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

239

**CRM-M No.65298 of 2025
Date of decision : 27.11.2025
Date of uploading : 27.11.2025**

Indu Devi**Petitioner**

Versus

State of Haryana**Respondent**

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

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

Mr. Gurmeet Singh, AAG, Haryana

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the petitioner in case FIR No.270 dated 17.8.2024 under Sections 103(1), 238(A) of Bharatiya Nyaya Sanhita, 2023, registered at Police Station Industrial Sector-7, Manesar, District Gurugram.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

'To, SHO, P.S. Sector 7, IMR Manesar, Gurugram. Respected Sir, I am Sohan Singh son of Rati Ram resident of village Sawad, P.S. Bond, District Charkhi Dadri, Haryana and I am posted as Security Inspector in GAS Security and I currently work at Maruti Power Train plant. Today on dated 17.08.2024, gardener Mohit son of Dayashankar, resident of village Jaggser, P.S. Jamu, District Amethi, UP and Nand Kishore Singh son of Ram ji Singh, resident of village Balhu, P.S. Darauli, District Siwah,



Bihar had been employed by our company to work outside the company, in front of Narmada Company near Aliyar Chowk, Green Area for the cutting of plants and trees. That during the cutting of the trees, in the sewerage situated right along side the green belt, Nand Kishore and Mohit saw the drum colour blue which was sealed by a black lid who then came back inside the company and entered the control room to inform me about this, that in the sewerage there is a blue drum closed with black lid, which upon approaching is giving of a really bad odor. That upon hearing this I approached the sewerage with the gardeners and saw that there was a blue coloured drum with black lid in the sewerage made of plastic and which is giving of a pungent smell, which I then informed to the company officials and upon the instructions of the company officials at around 4:20 P.M. I dialed 112 to contact the police officials and informed them about the same. That police came to the spot and took out the drum from the sewerage which was then checked by the police party, upon which we got to know that an unknown individual's dead body had been wrapped in a Saree like cloth which was tied around and stuck inside the drum and thrown there. That this unknown individual has been killed by some other unknown individual by suffocating his neck with an electric wire colour black and red after which has been dumped in the drum and thrown away with the intention to destroy the evidence. That appropriate legal action be taken against this unknown person. I have given my complaint to you in writing. Action be taken. Applicant Sohan Singh son of Rati Ram, village Sawad, district Charkhi Dadri, currently Security Inspector, GAS PH 8607870987.'

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 20.8.2024. Learned counsel has further argued that the case in hand is not one of eye-witness account but of circumstantial evidence only. Learned counsel has further iterated that, assuming *arguendo*, the prosecution version is taken to be correct, the co-accused are seen near the blue drum wherein the body of the deceased was found but even the petitioner was not seen there. Learned counsel has further argued that the prime basis of implicating the petitioner in the FIR in



question is the disclosure statement of co-accused, which is not tenable in law. Learned counsel has further submitted that the petitioner has suffered incarceration for more than one year. Learned counsel has further argued that the petitioner is a lady aged 22 years with no criminal antecedents. Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition by arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 26.11.2025 in Court, which is taken on record.

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

6. The petitioner was arrested on 20.8.2024 wherein after investigation was carried out and challan stands presented on 18.11.2024. Total 24 prosecution witnesses have been cited, out of which only 6 have been examined till date. It would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court in ***Criminal Appeal No.2787 of 2024*** titled as ***Javed Gulam Nabi Shaikh vs. State of Maharashtra and another***, decided on 03.07.2024; relevant whereof reads as under:-

“19 If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective



of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly. howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

6.1 The rival contention raised at Bar give rise to debatable issues which shall essentially 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.

6.2 As per custody certificate dated 26.11.2025 filed by learned State counsel, the petitioner has already suffered incarceration for a period of 01 year, 3 months and 6 days & is not shown to be involved in any other case.

6.3 At this juncture, it would be apposite to refer herein that the petitioner is a lady aged 22 years (As per memo of parties appended with the petition), hence, 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 *pari 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.

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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.’

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

7. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the Ld. concerned trial Court/Duty Magistrate.



However, in addition to conditions that may be imposed by the concerned trial Court/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 herself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit her passport, if any, with the trial Court.
- (vi) The petitioner shall give her cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change her 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.

8. 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.

9. Ordered accordingly.

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

(SUMEET GOEL)
JUDGE

27.11.2025
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