



CRM-M-11731-2026

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-11731-2026

Date of Decision : 01.04.2026

BALA DEVI

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Ms. Mehak Sawhney, Advocate
for the petitioner.

Mr. Vishal Singh, AAG, Haryana.

AARADHNA SAWHNEY, J. (ORAL)

1. Petitioner, who is co-accused in case FIR No. 286 dated 16.09.2023, registered against her under Sections 302, 201, 34 of Indian Penal Code, at Police Station Kalayat, District Kaithal, has filed the present petition under Section 483 of BNSS for grant of bail.

2. Relevant facts as emerging from the documents on record be noticed hereinbelow:-

EHC Suresh Kumar, who then was posted as Security Agent in Police Station, Kalayat, set the criminal law in motion by filing a complaint pointing therein that in the late hours of 16.9.2023, he was present at Rapriya Patti Balu to receive a secret information with regard to case FIR No. 285 dated 15.9.2023, under Section 346 IPC, Police Station Kalayat, when he received another information that Maafi (since deceased), daughter of Suresh Kumar s/o Bhalla Ram, resident of Rapriya Patti Balu, was having love affair with co-villager

*Rohit, son of Ramphal, resident of Kheri Chopta, District Hisar. The girl was preparing to secretly elope with her lover Rohit. When the family members of the girl came to know about her love affair, they overpowered her and took her to their house in village Balu and killed her. Further, with the intention of destroying the evidence, the body of the girl was also cremated. Complainant alleged that mother of late Maafi, namely, **Bala Devi (present petitioner)**, her father Suresh Kumar and other family members had killed the young girl. On the statement of complainant, a formal case vide FIR No. 286 dated 16.9.2023, was registered against her under Sections 302, 201, 34 of Indian Penal Code, at Police Station Kalayat, District Kaithal.*

Petitioner was arrested on 16.09.2023. During interrogation, she confessed to her involvement in commission of offence with her husband i.e. co-accused Suresh Kumar and admitted that a Chunni/Dupata, was used to strangulate Mafi (deceased) and 'old leg of cot' was used with which they struck her head and were both burned along with Mafi's body. In her disclosure statement, she (P) had also demarcated the place of occurrence and place where deceased was caught by her husband with Rohit on motorcycle and the place of cremation ground. The copy of disclosure statement is appended with status report dated 24.03.2026 as Annexure R-1.

Case of the prosecution is based on '*Circumstantial Evidence*'. According to them, incriminating material collected during the course of investigation, complete the chain of events, collectively pointing towards the guilt of the accused. It is further the case of prosecution that after committing the horrifying murder, father of deceased made an extra judicial confession before his son-in-law, namely, Ravi Kumar, who is married to his elder daughter Manju,

confessing therein that he and his wife Bala Devi (P) were upset when they came to know that their young daughter was emotionally entangled with Rohit and was planning to elope with him. They tried their level best to make her understand, but she was adamant and openly announced in front of the entire family that she would be marrying none-else but Rohit. Disapproving of her 'like', they killed her. Incidentally, the motorcycle of Rohit, who had come to meet the deceased, as per prosecution, was also recovered from the house of the petitioner.

It is further the case of prosecution that since the cremation had already performed, the bones of the deceased were collected from the cremation site, converted into a sealed parcel and sent to FSL. Photographs of the site were also got clicked. Call details etc. of petitioner, the deceased and Rohit were also taken into possession.

On culmination of investigation, challan complete in all respects was presented in the Court against present petitioner and her husband.

An application for grant of bail filed by the petitioner was dismissed by the learned Additional Sessions Judge, Special Court, Kaithal, in terms of order dated 10.02.2026. Aggrieved of the same, the present petition has been filed.

3. Learned counsel for the petitioner contends that the petitioner, who lost her young daughter, has been falsely implicated in the present case. She and her husband had no 'motive' to kill their daughter. It is further the submission of learned counsel that there is 'no eye witness' account of the alleged incident. The entire case of the prosecution is based on the 'Circumstantial Evidence'. As per the case of prosecution, father of deceased had confided in his own son-in-law Ravi Kumar (married to his elder daughter Manju) and had elaborated upon the

manner in which the young girl was done to death. Aforesaid Ravi Kumar was examined as PW-5, who however, did not support the prosecution case and resiled from the earlier version given to the police authorities. After being declared 'hostile', on the request of learned PP, he was subjected to rigorous cross-examination, but nothing material or fruitful to support the case of prosecution could be elicited therefrom.

It is further the submission of learned counsel that even otherwise the story of prosecution seems highly doubtful, in view of the stand of the complainant, who deposed that though he received information about the tragic incident at about 9.30 PM on 16.9.2023, but he did not report the matter to the police authorities. It is only when he woke up during midnight that his statement was recorded much later. Even otherwise, being a Security Agent posted in the area, it is unbelievable that he did not receive any information about the incident on 14.9.2023. The fact that during his cross-examination, he admitted having stayed in the village for two days, i.e., on 14.9.2023 and 15.9.2023, further creates dent in the prosecution story, for it appears quite strange to common sense that during this period, no one informed him about the incident. Attention of the Court has also been drawn to statement made on oath by Sh. Rakesh, son of Prem Chand (brother of petitioner Bala Devi), who while appearing as PW-1 admitted during cross-examination that he did not see any injury marks on the body of the young girl except for some blisters. Further, Smt. Dimple, mother of Rohit also put in her appearance as PW-4 and during her cross-examination, deposed that her son Rohit had returned back home in the late evening of 16.9.2023 alongwith motorcycle.

Towards the end, learned counsel contends that the petitioner who has been in custody since 16.9.2023, deserves a lenient view to be taken in his favour, for out of 22 prosecution witnesses, only 13 have been examined, thus, the likelihood of the trial being completed in the near future is quite remote. When appreciated in the light of submissions advanced hereinabove, further incarceration of petitioner would not serve any useful purpose as the same would not only be violative of her rights under Article 21 of the Constitution of India, including right to speedy trial but would also be against the principle of “*Bail is a general rule and incarceration is an exception*”. Prayer for allowing the petition has been made.

4. *Per contra*, while referring to the Status Report dated 24.03.2026 by way of affidavit of Mr. Lalit Kumar, Deputy Superintendent of Police, Kalayat, learned State counsel has opposed the request for grant of bail on the ground that the plea taken by the petitioner that her daughter died due to electrocution, appears to be totally concocted and an afterthought, for had it been so, there was no occasion for the family not to rush her (deceased Mafi) to any hospital and to hurriedly perform the last rites. This was done by petitioner and her other family members only to shield them from legal punishment. In one such emotional and anxious moment, when the guilt got better of husband of petitioner, he confided to her son-in-law Ravi Kumar (husband of elder daughter Manju) and elaborated upon the manner in which he (P) and her husband murdered their young daughter. It is further the submission of learned State counsel that the young girl was emotionally attached to Rohit, a co-villager, their relationship was not approved by the family members who in a fit of rage killed her. It has also been prayed that

no case for taking a lenient view in favour of petitioner (mother of the deceased) is made out. Dismissal of the petition has been sought for.

5. I have heard the learned counsel for the parties and with their able assistance, perused the record available on record.

6. It is settled principle that grant of Bail is the rule and jail is the exception. Hon'ble Supreme Court in "***Gurbaksh Singh Sibbia V. State of Punjab***", ((1980) 2 SCC 5) held as under:-

"27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta in [Nagendra v. King-Emperor](#) [AIR 1924 Cal 476, 479, 480 : 25 Cri LJ 732] that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In two other cases which, significantly, are the 'Meerut Conspiracy cases' observations are to be found regarding the right to bail which deserve a special mention. In [K.N. Joglekar v. Emperor](#) [AIR 1931 All 504 : 33 Cri LJ 94] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. It was observed by the court that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. In [Emperor v. Hutchinson](#) [AIR 1931 All 356, 358 : 32 Cri LJ 1271] it was said that it was very unwise to make an attempt to lay down any particular rules which will bind the High Court, having regard to the fact that the legislature itself left the discretion of the court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes. It was observed that the principle to be deduced from the various sections in the [Criminal Procedure Code](#) was that grant of bail is the rule and refusal is the exception. An accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person he is therefore entitled to freedom and every opportunity to look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.

28. Coming nearer home, it was observed by Krishna Iyer, J., in Gudikanti Narasimhulu v. Public Prosecutor [(1978) 1 SCC 240 : 1978 SCC (Cri) 115] that: (SCC p. 242, para 1)

“... the issue of bail is one of liberty, justice, public safety and burden of the public treasury, all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process. . . . After all, personal liberty of an accused or convict is fundamental, suffering lawful eclipse only in terms of procedure established by law. The last four words of Article 21 are the life of that human right.”

29. In Gurcharan Singh v. State (Delhi Administration) [(1978) 1 SCC 118 : 1978 SCC (Cri) 41] it was observed by Goswami, J., who spoke for the court, that: (SCC p. 129, para 29)

“29“There cannot be an inexorable formula in the matter of granting bail. The facts and circumstances of each case will govern the exercise of judicial discretion in granting or cancelling bail.”

30. In AMERICAN JURISPRUDENCE (2d, Volume 8, p.806, para 39), it is stated:

“Where the granting of bail lies within the discretion of the court, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the court, the primary inquiry is whether a recognizance or bond would effect that end.”

It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail.”

In ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012(1) RCR (Criminal) 586***, Hon’ble Supreme Court upheld the order of the High Court in granting bail to the second respondent/accused on the ground that he had been in custody for a long period and the possibility of the trial being concluded in the near future was remote.

In view of the settled proposition of law, submissions advanced by the learned counsel for the petitioner but without adverting to the merits of the case, lest it may prejudice the trial, keeping in view of the fact that petitioner has been in custody since 16.9.2023, as also that out of 22 prosecution witnesses, only

12 have been examined till date, thus, possibility of completion of trial in the near future is quite remote, lenient view is taken in favour of petitioner who is not involved in any other criminal case, by extending her concession of bail, for her further incarceration would not only be violative of her rights under Article 21 of the Constitution of India, including right to speedy trial but would also be against the principle of "*Bail is a general rule and incarceration is an exception*" as held by as held by Hon'ble Supreme Court in ***Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.***

7. Resultantly, petitioner is granted the concession of bail subject to her furnishing bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall 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 witnesses.*
- (iii) *The petitioner shall not leave the country without prior permission of the trial Court.*
- (iv) *The petitioner shall not commit an offence similar to the offence of which, she is an accused, or for commission of which she is suspected of.*
- (v) *The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vi) *The petitioner shall not in any manner misuse her liberty.*
- (vii) *The petitioner shall furnish her address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only*

with prior intimation to the learned Trial Court, stating the reason for the same.

(viii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.

(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

8. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

9. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AARADHNA SAWHNEY)
JUDGE

01.04.2026
Nisha Yadav

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>