



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

(107)

CRM-M-13409-2025

Date of Decision: 10.03.2026

RAHUL ALIAS BABA

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Raj Kumar Bhatia, Advocate
for the petitioner.

Ms. Saumya Ahluwalia, Sr. DAG, Haryana

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No. 770 dated 30.09.2023 under Sections 376(2)(f), 376(a)(b) of IPC and Section 6 of POCSO Act, registered at Police Station Civil Lines Sirsa, District Sirsa (Annexure P-1).

2. The translated version of the FIR is reproduced below:-

“Stated that I am resident of above noted address, I left my education in 3rd class and now I am residing with my grandmother from last 15 days. My mother gone to Mansa for purpose of Jagran. I staying with my grandmother xxxx at Guru Nanak Nagar Sirsa on 29.09.2023 at 5 PM I was with my maternal uncle Rahul in my grandmother's house. My grandmother was not at house. My maternal uncle bolted main gate and came to me in my room and directed me to bring the water. When I stucke into room for serving water to my maternal u uncle. My maternal uncle put me on bed and removed my wearing Nikkar and also removed his wearing pent. Thereafter, my maternal uncle put his hand on my mouth and started put penis in my Vagina. I felt pain suddenly the outside gate was locked by someone so my maternal uncle left me and directed me to see who is on gate after wearing Nikkar. I opened outside gate but none was present there. I went outside the gate immediately and I slowly on foot reached near the house of my mother situate at Gol Diggi. My maternal uncle Rahul also followed me. I hide myself in the street. Thereafter, called my mother by getting mobile phone from one



Shopkeeper uncle on 99921-2xxxx and stated whole story to my mother. My mother came to house in night thereafter, my mother brought me in the police Station. My maternal uncle Rahul may be punished. I recorded my statement in front of my mother. RTI/ Supra Sd/- Supra”

3. Learned counsel for the petitioner submits that the petitioner, aged 31 years, has been falsely implicated in the present case on the basis of the statement of the prosecutrix, alleging wrongful acts by the petitioner. It is submitted that the allegations are a result of a property dispute, as the mother of the prosecutrix, who is the real sister of the petitioner, intends to claim a share in the house belonging to the mother of the petitioner and has been pressurizing the family of the petitioner for the same. It is further submitted that the mother of the prosecutrix has a history of making false allegations, and had earlier lodged a similar complaint against one Bharat Bhushan, which, upon police investigation, was found to be false. The prosecutrix has also admitted in her deposition before the learned trial court that a quarrel had taken place prior to the alleged incident regarding the said property dispute. Reliance is also placed upon the FSL report (Annexure P-5), which indicates that no semen was detected on the person of the prosecutrix. It is also submitted that there is no cogent or credible evidence on record to substantiate the allegations levelled against the petitioner. Furthermore, learned counsel submits that the material witnesses have already been examined before the learned Trial Court. Learned counsel submits that the petitioner has already undergone an actual custody of 01 year 11 months and 16 days and has clean antecedents.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. She states that the petitioner was actively involved in the commission of the offence. She has



per custody certificate, the petitioner has undergone an actual custody of 01 year 11 months and 16 days. The learned State counsel, on instructions from official concerned, submits that in the present case, charges were framed on 27.05.2024 and out of total 25 prosecution witnesses, 04 have been examined till date. She submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. Heard the rival submissions made by learned counsel for the parties.

6. Trite to say that at the stage of considering a petition seeking bail, the Court, though not required to make a roving inquiry into the evidence, must take into consideration the nature of the offence, severity of the punishment and prima facie, the involvement of the accused and the material on record.

7. Before proceeding further, a gainful reference can be made to the observations passed by the Hon'ble Supreme Court in ***Sanjay Chandra v. CBI, (2012) 1 SCC 40***, relevant paras whereof reads thus:

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases,



"necessity" is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances."

8. Reverting to the case in hand, it is borne out from the record that charges came to be framed on 27.05.2024. Yet only 04, out of 25 cited prosecution witnesses have been examined. The pace of the proceedings, thus, indicates that the trial has already been underway since long, and the conclusion thereof may not be imminent. The petitioner has already remained in actual custody for a period of 01 year 11 months and 16 days. It is also not disputed that he has no criminal antecedents and is not involved in any other case.

9. While the truthfulness or otherwise of the allegations levelled against the petitioner, and the culpability, if any, would be tested and determined on the touchstone of evidence during the course of trial, the parameters governing the grant of bail necessitate a balanced consideration of the nature of accusation, the stage of the trial, the antecedents of the accused, and the likelihood of his absconding or influencing the course of justice.

10. Presently, no material has been placed on record to suggest that the petitioner poses a flight risk or that his release would impede the fair conduct of the trial, particularly when the material witnesses stand examined. Therefore, upon taking into account all the considerations stated hereinbefore, and without expressing an opinion on the merits of the case lest it may prejudice the trial, this Court is of the opinion that the continued detention of



substantial period of incarceration already undergone, would not advance the cause of justice. The guarantee of personal liberty under Article 21 of the Constitution of India, which includes the right to a speedy trial, obliges the Court to ensure that pre-trial incarceration does not assume a punitive character. The prolonged incarceration, without the prospect of the trial being concluded in the near future, would also run contrary to the settled legal principle that 'bail is the rule and jail is the exception', as reaffirmed by the Hon'ble Supreme Court in *Dataram Singh vs. State of Uttar Pradesh and another (2018) 3 SCC 22*.

11. Accordingly, the present petition is allowed, and to ensure that the interests of justice are adequately safeguarded, the petitioner is ordered to be released on regular bail upon furnishing of adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate, subject to the following terms and 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 him from disclosing such facts to the Court or to any police officer or tamper with the evidence.



12. 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.

13. It is reiterated that the observations made in hereinabove are only for the purpose of adjudicating the present bail petition, and must not be construed as a final expression of opinion on the merits of the case.

14. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

March 10, 2026

Ritika

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*