



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

(202)

CRM-M-12688-2026 (O&M)

Date of Decision: 16.03.2026

NEERAJ KUMAR

.....Petitioner

Versus

STATE OF PUNJAB AND ANR.

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Nipun Bhardwaj, Advocate
for the petitioner.

Mr. Luvinder Sofat, Senior DAG, Punjab.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 BNSS has been invoked for grant of regular bail to the petitioner in case FIR No. 160 dated 14.07.2024 under Sections 363, 366, 376- DA of IPC (now 137, 87, 70(2) of BNS-2023) and Section 6 of POCSO, registered at Police Station Balongi District SAS Nagar, Mohali.

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

“Statement of XXX Devi wife of Avdesh Pandey, resident of Village XXX District Gopalganj (Bihar), presently resident of Room No. 9, Sector-3, Devi Nagar Panchkula (Haryana) aged about 42 years, Mobile No. XXXXX19369. Stated that I am resident of abovesaid address. I want to inform you that I was married toXXX son of Prabhu Nath Pandey, resident of Siwan Police Station Gopalganj, (Bihar). We have five children from this wedlock. The eldest daughter is XXX, who is about 20 years old. Younger to her is XXX who is about 18 years old. Then XXX, who is about 15 years old. Then XXX, who is about 15 years old. Then one son namely, Aman, who is about 12 years old. My husband used to fight with me and beat me a lot. He did not give me any house expenses etc. Due to which it became very difficult for me to take care of my children. Due to which my husband and I started to be estranged. At that time I was living in a rented house in Balongi and a lady named XXX was living with her family in front of my house. She has two daughters and one son. My younger

daughter XXX and Sonu's younger daughter XXX got along very well. Both of them used to play together. Our children and Sonu's children often visited each other's houses. Then I got separated from my husband and I took my three children XX, XX and XXX with me and started living in Panchkula and I left my two daughters XXX and XXX with XXX resident Balongi, because I could not properly take care of these girls alone. My husband clearly refused to take responsibility for my children, because he was addicted to alcohol. After which, I used to talk to Sonu and his family and my daughter on the phone. We used to ask about each other. My daughters Roshni and Nandini have never said anything bad to me about Sonu or her family. My daughters used to always praise them. Neha, the daughter of Sonu, resident of Balongi, was married to Monu, who used to come to Sonu's house after marriage. Monu filed an application and registered FIR No. 81/24 against her mother-in-law Sonu in Police Station Women. He says that Sonu resident of Balongi does business with my girls and lives off their money and left both girls xx and xx at Jyoti Sarup Kanya Asara Randhawa Road Kharar, District. SAS Nagar. Now that both my daughters have come home to me. They didn't tell me anything before but now they told me that Sonu resident of Balongi, did not do any business with her and said that Sonu aunty's son-in-law Monu did not talk to each other and my daughter xx told me that "about 7-8 days before the FIR was registered against Sonu, on 27.05.2024 in the afternoon, my daughter xx was whispered to by Sonu's son-in-law Monu in front of TDI, he took me with him to the AP Hotel at Zirakpur with his friend in the car", where he kept her for three days. Where Monu and his friend Akash along with my girl xx had forced physical relations with her in that hotel and kept threatening my daughter that they will make her photo and video viral, if you did not give a statement against Sonu. Please take appropriate legal action against Monu and Akash."

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the instant case, which is a counter-blast to the FIR No. 81 dated 04.06.2024 registered under the Immoral Traffic (Prevention) Act, IPC, JJ Act and POCSO Act, which was lodged by the co-accused Monu, pursuant to which two minor girls were rescued from the clutches of accused Mahima Khan alias Sonu and were sent to protection home. It is submitted that there is a delay of more than one month in registration of the present FIR. Moreover, the petitioner was not even named in the FIR, but was nominated as an accused upon the recording of the statement of the prosecutrix under Section 164 Cr.P.C., wherein too, it is submitted, that no specific role was attributed to the petitioner. It is further contended that even the allegations under the POCSO Act are not made out

against the petitioner. Reliance has been placed on Annexure P-6, i.e., the report of medical board, wherein as per the ossification test, the age of the prosecutrix is assessed as between 18-20 years. Learned counsel submits that merely bald allegations have been levelled against the petitioner, without any material on record to corroborate the same. The versions put forth by the prosecutrix disclose the presence of material contradictions and improvements. Even the material witnesses have been examined. He further submits that the petitioner, aged about 35 years, has already undergone an actual custody of 01 year 07 months and 17 days. It is further emphasised that a similarly placed co-accused has been granted bail by this Court on 24.02.2026 in CRM-M-71328-2025.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He has filed status report by way of an affidavit of Karan Singh Sandhu, PPS, Deputy Superintendent of Police, Sub Division Kharar, District SAS Nagar, which is taken on record. He states that the petitioner was actively involved in the commission of the offence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone an actual custody of 01 year 07 months and 17 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The charges were framed on 27.01.2025 and out of a total of 18 prosecution witnesses, 05 have been examined. He 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. Before proceeding, 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."

7. Reverting to the case in hand, it is borne out from the record that charges came to be framed on 27.01.2025. Yet, only 05 out of 18 cited prosecution witnesses have been examined. The pace of the proceedings, thus, indicates that the conclusion of trial is not imminent. The petitioner has already remained in actual custody for a period of 01 year, 07 months and 17 days. The co-accused has been granted concession of regular bail vide order dated 24.02.2026 passed in CRM-71328-2025.

8. Pertinently, there is a delay in registration of the FIR. 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.

09. 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 herein-before, 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 the petitioner, in the backdrop of the pace of the proceedings and the 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**.

10. 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

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 him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

11. 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.

12. 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.

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

(KIRTI SINGH)
JUDGE

March 16, 2026

SwarnjitS

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