



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

110

CRM-M-13063-2026 (O&M)

Date of decision: 12.03.2026

“P”xxx

...Petitioner

V/S

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Davinder Lubana, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

SHALINI SINGH NAGPAL, J.

1. The petition under Section 483(3) Bharatiya Nagarik Suraksha Sanhita, 2023 seeks cancellation of regular bail allowed to respondent No. 2 by learned Special Judge-Additional Sessions Judge, Rohtak vide order dated 12.02.2026 in FIR No. 370, dated 29.12.2025, under Sections 376(2)(n), 506, 204 Indian Penal Code, Police Station Urban Estate, Rohtak.
2. Prosecutrix ‘P’ lodged the FIR stating that she was married and in the year 2017 her divorce litigation was pending, when she met Ashok son of Ishwar Datt, resident of Model Town, Rohtak, who was her senior in Maharshi Dayanad University, Rohtak. They became friends and she disclosed her marital status to Ashok, who said that he had no problem and he would solemnize marriage with her after she was divorced. One day, Ashok took her to his rented house in Sector-1, where he raped her against her wishes. When she refused, he promised to marry her. From 2019-2022, she lived in Ashok’s house as his wife. Her divorce case was finalized in the year 2023. When she asked Ashok to



marry her, he avoided the matter saying that he would first construct a house. Ashok purchased a plot and she helped him financially to make the purchase. After about 01 year, when she again asked Ashok to marry her, he refused to solemnize marriage, threatened to make her videos and photos viral and also to kill her.

3. Learned counsel for the petitioner submits that respondent No. 2 was allowed regular bail vide order dated 12.02.2026 of learned Special Judge-Additional Sessions Judge, Rohtak. The bail order was illegal, perverse and contrary to the settled principles of law. Considering the severity of punishment under Section 376(2)(n), continuous sexual exploitation of the prosecutrix under coercion and threat, impact of the offence on the society, bail ought to have been denied. It was argued that learned Special Judge-Additional Sessions Judge, Rohtak gravely erred in recording *prima facie* observation that the case appeared to be of consensual relationship which amount to prejudging the case, subject matter of trial. It was argued that consent of the prosecutrix obtained under misconception of fact was no consent in the eyes of law. The observation that respondent No. 2 was in judicial custody for the last 42 days was also false as he had completed only 34 days of judicial custody. Observation of the Court that there was 06 years delay in lodging of FIR was also factually incorrect. Thus, the bail granted to respondent No. 2 vide order dated 12.02.2026 was liable to be cancelled.

4. In **Crl. Appeal No. 2381 of 2025, decided on 02.05.2025**, titled ***Sanjay Kumar Jangid and Another Vs. Mukesh Kumar Aggarwal and Another***, Hon'ble Supreme Court has observed as follows



*“16. The jurisprudence surrounding cancellation of bail under Section 439(2) of the CrPC is very clear as to that bail once granted should not be cancelled in a mechanical manner unless any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to enjoy the concession of bail during the trial. The grounds for cancellation of bail as illustrated in **Raghubir Singh v. State of Bihar (1986) 4 SCC 481** and reiterated in **Aslam Babalal Desai v. State of Maharashtra (1992) 4 SCC 272** broadly lay down the grounds on which a bail can be cancelled where (i) the accused misuses his liberty by indulging in similar criminal activity, (ii) interferes with the course of investigation (iii) attempts to tamper with evidence or witnesses, (iv) threatens witnesses or indulges in similar activities which would hamper smooth investigation, (v) there is likelihood of his fleeing to another country, (vi) attempts to make himself scarce by going underground or becoming unavailable to the investigating agency, (vii) attempts to place himself beyond the reach of his surety, etc. These grounds are illustrative and not exhaustive. It has also been echoed in various judgments that rejection of bail stands on a different platform as compared to cancellation of bail which is considered to be a harsh order as it interferes with the liberty of an individual, and hence, it must not be lightly resorted to. [(5) **Dolat Ram and Others Vs. State of Haryana, (1995) 1 SCC 349**)]”*



5. The principal of law well established by a line of precedents is that concession of liberty once granted is not to be withdrawn unless there is compelling justification there for.

6. It is also settled that a bail order can be set aside even in the absence of post bail misconduct, if it is found to be unjustified, illegal or perverse, without application of mind to material factors (***Puran Vs. Rambilas and Another (2001)6 SCC 338, Dr. Narendra K. Amin Vs. State of Gujrat and Another 2008(6) SCC 415, Prasanta Kumar Sarkar Vs. Ashis Chatterjee (2010)14 SCC, 496, Prakash Kadam and Others Vs. Ramprasad Viswanath Gupta and Another (2011)6 SCC 189, Neeru Yadav Vs. State of U.P. (2014)16 SCC 508***).

7. Operative part of the order dated 12.02.2026 of learned Special Judge-Additional Sessions Judge, Rohtak is reproduced as under:

“Since, there is a delay of around six years in registration of the FIR since the year 2019 and even delay of two years after the divorce of the prosecutrix. It has been conceded that there is no obscene photo and video till date on the case file. The applicant-accused do not have any criminal antecedent. He has already suffered custody for a period of around 42 years. The case appears to be consensual relationship on the pretext of marriage. However that is subject matter of trial. Therefore, no useful purpose would be served by detaining the applicant-accused further in custody. Accordingly, the bail application is hereby allowed. The applicant-accused shall be released from custody, subject to his



furnishing personal bonds in the sum of Rs.1,00,000/- with one surety in the like amount, to the satisfaction of the learned Illaqa/Duty Magistrate/trial Magistrate, as the case may be. A copy of this order be sent to the quarter concerned. File be consigned to the record-room after due compliance.”

8. As per version of the petitioner in the FIR, the relationship between her and respondent No. 2 started in 2017. Petitioner lived with him as his wife from 2019 till 2022. The FIR does not disclose the date when the first incident of sexual intercourse took place. As such, the observation of learned Special Judge-Additional Sessions Judge, Rohtak that there was delay of 06 years in registration of the FIR is not factually incorrect. The error in calculation of the days in custody would hardly vitiate the order. Petitioner's own case is that her relationship with respondent No. 2 was consensual in nature and she lived with him as his wife. At that time, she was a married lady and her divorce was granted only in 2023. Considering the facts narrated in the FIR, nature of the offences alleged to have been committed, long duration of consensual relationship and the marital status of the petitioner, it does not appear that discretion under Section 483 BNSS has been wrongly or arbitrarily exercised by learned Additional Sessions Judge. The order of learned Special Judge-Additional Sessions Judge, Rohtak is well reasoned, not amenable to interference. It is not the stand of the petitioner that after release of respondent No.2 on bail, he had misused the concession and either made an attempt to intimidate her or to tamper with the evidence. Vital facts of the case were taken note of by learned Additional Sessions Judge while allowing the bail application

and no interference is called for. It is not a fit case to curtail liberty of respondent No. 2 by cancelling his bail.

9. The petition which has no merit, stands dismissed.
10. Pending CRM(s), if any, are also disposed of accordingly

12.03.2026
Ajay Goswami

(SHALINI SINGH NAGPAL)
JUDGE

Whether speaking/reasoned

Whether reportable

: Yes/No

: Yes/No