



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

215

CRM-M-13951-2026
Date of Decision: 18.03.2026

DAVINDER SINGH

.....PETITIONER

Versus

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON’BLE MS. JUSTICE NEERJA K. KALSON

Present:- Mr. Sahil Soi, Advocate for the petitioner.
Mr. Ravneet Singh Lekhi, AAG, Punjab.

NEERJA K. KALSON, J.

1. The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking grant of regular bail to the petitioner in case FIR No.250 dated 08.12.2023 under Sections 363, 366 of IPC, 1860 and Sections 376, 212, 216, 120-B of IPC (Section 4 of the POCSO Act, 2012 deleted vide DDR No. 20 dated 06.06.2024) and Section 6, 17 and 21 of the Protection of Children from Sexual Offences Act, 2012 (added later on vide DDR No.20 dated 06.06.2024), registered at Police Station Navi Baradari, Jalandhar.

2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Statement of xxxx wife of LT. xxxxx resident of H.NO 28-A OLD xxxxx near xxxxxxxx age about xxx years mobile number xxxxxxx.



Stated that I am a resident of the above address and do household work. My marriage took place in 2005 from which I have 02 daughters, elder daughter xxxxx whose date of birth is xxxxx and younger daughter xxxx is xxx years old. On date 07/12/2023 time about 05.15 PM my both daughters left home riding on Activa for the market. My younger daughter xxxxx returned home at about 5.40 pm and crying she told me that when we both sisters reached near the new petrol pump of Ladowali Road at that time it would be about 5.30 PM a boy came riding on a Bike and stopped in front of our Activa and forcibly made xxxxx 'xxxxx' sit with him and took her somewhere. When we searched for our daughter on our own and inquired nearby then came to know that a boy named Deepu of village Pholariwal has taken my daughter under the pretext of marriage, then we reached the Sarpanch of Pholariwal village and told the whole matter and went to the boy's house and saw that his house was locked. Upon which now we have come present at the police station to give information, my daughter was taken by boy Deepu resident of Pholariwal under the pretext of marriage against whom due legal action should be taken. My minor daughter should be searched for.”

3. Learned counsel for the petitioner submits that the petitioner has been in custody since 11.12.2024 for more than 01 year. The supplementary challan was presented on 07.02.2025. The trial has already commenced and the material witnesses are yet to be examined. That the petitioner was not named in the original FIR and only the main accused Deepak @ Deepu was initially named in the FIR. The petitioner's name was added as an accused only subsequently on the basis of statement of the prosecutrix's re-recorded under Section 164 Cr.P.C. That no specific or positive act of kidnapping, abduction, rape or any other substantive offence is attributed to the petitioner. He further contends that the petitioner was allegedly only standing near the spot at the time of the



incident on 07.12.2023. That the co-accused in the present FIR namely Jutesh Jograj Singh has been granted bail vide order dated 22.12.2025 passed by the Co-ordinate Bench of this Court. Learned counsel further contends that the petitioner has been falsely implicated in the present case. He further submits that the trial is likely to take a considerable period of time. There is, thus, no tangible or substantive prosecution evidence warranting the continued incarceration of the petitioner. In view of the above, learned counsel prayed for the grant of regular bail to the petitioner.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus, the petitioner does not deserve the concession of regular bail. However, he has not disputed the allegations qua the petitioner that he was standing at the place of the incident.

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

6. The petitioner was arrested on 11.12.2024 whereinafter investigation was carried out and the supplementary challan was presented on 07.02.2025. The trial has already commenced, the material witnesses are yet to be examined and the conclusion of the trial is likely to take a considerable period of time. It is indubitable that the petitioner has already suffered incarceration for about approximate 01 year and the trial in no way is likely to conclude in near future. In this regard, it will be apposite to place reliance upon the judgment of the Hon'ble Supreme Court titled as **“Manish Sisodia versus Directorate of Enforcement”** 2024 INSC 595;

relevant whereof reads as under:-



“50. As observed by this Court, the right to speedy trial and the right to liberty are sacrosanct rights. On denial of these rights, the trial court as well as the High Court ought to have given due weightage to this factor.

51. Recently, this Court had an occasion to consider an application for bail in the case of Javed Gulam Nabi Shaikh v. State of Maharashtra and Another wherein the accused was prosecuted under the provisions of the Unlawful Activities (Prevention) Act, 1967. This Court surveyed the entire law right from the judgment of this Court in the cases of Gudikanti Narasimhulu and Others v. Public Prosecutor, High Court of Andhra Pradesh⁷, Shri Gurbaksh Singh Sibbia and Others v. State of Punjab, Hussainara Khatoon and Others (I) v. Home Secretary, State of Bihar Union of India v. K.A. Najeeb and Satender Kumar Antil v. Central Bureau of Investigation and Another. The Court observed thus:

"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."

52. The Court also reproduced the observations made in Gudikanti Narasimhulu (supra), which read thus:

"10. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in Gudikanti Narasimhulu v. Public Prosecutor, High Court reported in (1978) 1 SCC 240. We quote:

"What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [R v. Rose, (1898) 18 Cox]:

"I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the, magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial.""

53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very wellsettled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception."



The rival contention of learned counsel for the parties; as to whether there is any tangible prosecution evidence available against the petitioner & as to whether the petitioner has been falsely implicated in the FIR in question; shall be gone into 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. The petitioner, who is aged 29 years, has already suffered incarceration for about 01 year.

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 his furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/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 himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number



without prior permission of the trial Court/Illaqa 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.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed of.

18.03.2026
pry

(NEERJA K. KALSON)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No