

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

224

CRM-M No.15984 of 2026 (O&M)

Date of Decision: 26.05.2026

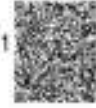
Lakshay @ Lucky**.....Petitioner****Versus****State of Haryana****..... Respondent****CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH****Present:** Mr. Sushil Jain, Advocate for the petitioner.

Ms. Deepali Verma, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

This is first petition for bail, filed by the petitioner under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita 2023'. This petition pertains to a case arising out of FIR No.100 dated 18.02.2025 for the commission of offence punishable under Section 140(3) [Sections 103(1), 238(1) and 3(5) added later on] of Bharatiya Nyaya Sanhita, 2023, Police Station Kharkhoda, District Sonipat.

2. In nut-shell, the facts emerging from record are that the above mentioned FIR was lodged at the instance of 'Debi Devi', hereinafter being referred to as 'complainant' only. It was stated by the above named complainant that her son namely 'Lakshaya' had left home on 17.02.2025 at 3.30 P.M and that she had received a whatsapp message on her mobile phone, and that the above said message was suggesting that her son had been kidnapped. The above named complainant requested for tracing her son.



3. It is the case of the prosecution that in view of above mentioned complaint, formal FIR of this case was lodged and the investigation taken up. As per prosecution, during the course of investigation when the dead body of the son of complainant was recovered, the case was converted into a case for the commission of offence under Section 103(1) of BNS, and thereafter, the appellant was taken into custody.

4. Heard.

5. It has been contended by learned counsel for the petitioner that the petitioner has clean antecedents, and that he has already suffered incarceration for a period of more than one year and three months. According to learned counsel for the petitioner the trial in the present case is yet to take-off as out of forty prosecution witnesses not even a single witness has been examined so far. In addition to above, it has also been contended by learned counsel for the petitioner that otherwise also on merit the petitioner is entitled to the benefit of bail, as in the present case there is no eye-witness account showing presence of petitioner on the spot at the time of occurrence, and that even the motive for the commission of offence and the last seen evidence is missing in the present case.

6. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel firstly, the allegations against the petitioner are for the commission of offence, which is serious in nature as one valuable life has been lost in this case. According to learned State counsel there was a demand of ransom through whatsapp while using the mobile phone

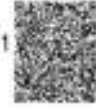


of deceased. In addition to above, the learned State counsel has contended that the tower location of the mobile phone of the petitioner and the deceased, at the time of occurrence, were at the same place, and that in the present case there is specific evidence against the petitioner qua the fact that the deceased had left home by telling his mother that he was going to meet the petitioner. In view of above, the learned State counsel has sought for the dismissal of present petition.

7. The record has been perused carefully.

8. A perusal of the record shows that following are the relevant factors which are required to be taken into consideration for a decision in the present petition:-

- i) that the petitioner is already in custody for a period of more than one year and three months;
- ii) that the petitioner has clean antecedents;
- iii) that the investigation in this case, qua the petitioner is already complete, and therefore, nothing has been left to be recovered from the possession of petitioner;
- iv) that the trial is taking place at a very slow pace as out of forty prosecution witness not even a single witness has been examined so far;
- v) that the instant case is based on circumstantial evidence and there is no eye-witness account and even the motive and last seen evidence is missing in this case;
- vi) that the detention of petitioner in judicial lock-up is not likely to



serve any purpose;

vii) that there is nothing on record to show that while on bail, the petitioner is likely to tamper with the evidence or influence the witnesses; and

viii) that there is nothing on record to show that while on bail, the petitioner will not participate/cooperate in trial.

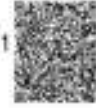
9. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are relevant, wherein it has been observed that "a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of



decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

10. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil v. Central Bureau of Investigation’ (2022) 10 SCC 51 are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

11. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our



justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

12. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

13. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled to the concession of bail, and that the present petition deserves to be allowed.

14. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the abovesaid benefit shall be subject to following conditions:-

- i) that 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 other authority;
- ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change



in address to the trial Court, till the final decision of the trial;
and

iii) that the petitioner shall not leave India without prior permission
of trial Court.

15. It is, however, made clear that any observation made hereinabove
is only for the purpose of deciding the present petition and the same shall have
no bearing on the merits of the case.

(SURYA PARTAP SINGH)
JUDGE

26.05.2026
Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No