



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

(223)**CRM-M-18943-2026****Date of Decision: 29.05.2026**

AMIT KUMAR

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Angrej Singh, Advocate
for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

Mr. Davinder Singh Saini, Advocate
for the complainant.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 of BNSS (439 of Cr.P.C.) has been invoked for grant of regular bail to the petitioner in case FIR No. 75 dated 28.07.2024 under Section 127(6) of BNS (Section 348 IPC) and lateron added Sections 61(2), 87, 49, 65(1), 137(2), 190 of BNS (Sections 506(1), 120-B, 366, 109, 376(AB), 363, 149 of IPC, 1860) and Sections 4, 15 of POCSO Act, registered at Police Station Sadar Phagwara, District Kapurthala (Annexure P-1).

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

“Statement of xxxx wife Vipin Yadav R/o Khajrula, Police Station- Sadar Phagwara, age 36 years 987813xxxx stated that I am the resident of above mention address and do household work. My daughter xxxx, age 14 years who was studying in 9th class went somewhere of her own free will on dated 26.07.2024 at 4.30 AM without telling me anything and went somewhere without asking me. My daughter often used to talk on the phone with Nitish Kumar son Chandan Yadav resident of Bibi Gaj, District Araia, Patna Bihar and Amit Kumar son Vidya Nand Yadav, resident of Ward No. 3 Mosakpur Bihar. I think that my daughter xxxx has taken them in conversation and kept them with her somewhere. Legal action should be taken against Nitish Kumar and Amit Kumar and my daughter xxxx should be searched; I have heard the statement which is correct. RTI xxxx verification correct/- Binder Kumar ASI Police Station- Sadar Phagwara.”



3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the allegation that he alongwith co-accused had enticed away the daughter of the complainant. It is submitted that a plain reading of the FIR shows that no specific allegations were levelled against the petitioner therein. Furthermore, the petitioner was neither named nor assigned any incriminating role in the statement of the prosecutrix recorded under Section 164 Cr.P.C. Moreover, there is no cogent evidence on record that points towards the complicity of the petitioner, now aged 25 years, who has clean antecedents and has already undergone an actual custody of 01 year 09 months and 28 days. It is also pointed out that the co-accused as well has been granted regular bail by this Court on 26.02.2026 vide CRM-M-34438-2025.

4. *Per contra*, learned State counsel and learned counsel for the complainant have vehemently opposed the submissions made by the learned counsel for the petitioner. The learned State counsel states that the petitioner was actively involved in the commission of the offence. The learned State counsel 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 09 months and 28 days. The learned State counsel, on instructions from ASI Binder Kumar, submits that the charges were framed on 28.05.2025 and out of a total of 23 cited prosecution witnesses, 03 have been examined till date. The learned State counsel 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 further, a gainful reference can also 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 28.05.2025. Only 03 out of 23 cited prosecution witnesses have been examined till date. The pace of the proceedings, thus, indicates that the conclusion is not imminent. The petitioner has already remained in actual custody for a period of 01 year 09 months and 28 days.

8. 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.

9. 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. 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 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. 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.

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. 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.

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

(KIRTI SINGH)
JUDGE

May 29, 2026
Ritika

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