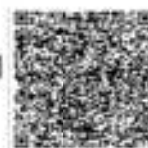


2026:PHHC:085031



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

212

CRM-M-22810-2026

Date of Decision : 25.05.2026

MUNASIB ALIAS KALA**...Petitioner****V/S****STATE OF HARYANA AND ANOTHER****...Respondents****CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY**

Present: Mr. Soeb Khan, Advocate for the petitioner.

Mr. Birender Bikram Attrey, Addl. Advocate General, Haryana.

AARADHNA SAWHNEY, J. (ORAL)

1. This petition for grant of bail under Section 483 BNSS, has been filed by petitioner, an accused in case bearing FIR No.108 dated 06.08.2025, registered against him at Police Station Bahin, District, Palwal, for the commission of offences punishable under Sections 115, 64, 351(3), 332 (B) of BNS,

2. Relevant facts, necessary for disposal of the present petition have been taken from para 2 of the Status report dated 22.05.2026 filed by way of affidavit of Mr. Suresh Kumar, HPS, Deputy Superintendent of Police, Hodal, District Palwal, which is reproduced as under:-

"2. That the brief facts of the case are that on 06.08.2025, the complainant namely Robin son of Haroon, resident of Village

Bishambara, Police Station Shergarh, District Mathura, Uttar Pradesh, appeared at police station and submitted a complaint against (i) Munasib alias Kala (petitioner) son of Shri Sapi, (ii) Rohit son of Iqbal, (iii) Mustakeem son of Bharti, and one unknown person, all residents of Village Bishambara, Tehsil Chhata, District Mathura, Uttar Pradesh. The complainant Robin stated in his complaint that I am a peace-loving and respectable person. I have a sister named RXXXXX, who is married in Village Pawsar, Tehsil Hathin, District Palwal. The above-mentioned accused persons namely Munasib alias Kala (petitioner) son of Sapi, Rohit son of Iqbal, Mustakeem son of Bharti, and one unknown person, all residents of Village Bishambara, Tehsil Chhata, District Mathura, Uttar Pradesh, have been harassing and troubling my sister for quite some time. The accused persons have also made a video of my sister, on the basis of which they blackmail her and establish physical relations with her. Because of the video, my sister remained silent till now, but the confidence and audacity of the accused persons have increased to such an extent that on the evening of 05.08.2025, the accused persons came together after consultation to my sister's matrimonial home in Village Pawsar, District Palwal. When my sister protested, they threatened to show the video to her husband. Thereafter, at about 2:00 AM in the early morning of 06.08.2025, the accused persons forcibly lifted my sister from the cot after gagging her mouth and took her aside where they started raping her. When she resisted, the accused persons assaulted her and again threatened to show the video to her husband. When the accused persons continuously ravished my sister, she took a stand against the atrocities and raised an alarm, due to which family members and neighboring people arrived at the spot. The accused persons then fled from the spot, however, two persons namely Munasib alias Kala (petitioner) and Rohit were caught and handed over to the police administration after calling them to the spot. The police took the accused persons from the house to the police station, while two other

persons managed to escape. Regarding this matter, my sister informed me over the phone, upon which I came to Village Pawsar, District Palwal where my sister narrated the entire incident to me. The accused persons have threatened to kill my sister and her family members. I apprehend that the above-mentioned accused persons may commit some untoward incident against my sister and her family, because the family members of the accused are persons of criminal nature and many criminal cases are already registered against them in Uttar Pradesh. Due to this, the life of my sister has become miserable and ruined. The motorcycle of the accused persons bearing registration No. UP-85-CP-1172 is also present at my sister's house. On the basis of which present FIR No. 108 dated 06.08.2025, under sections 115, 64, 351(3), 332(B) of BNS has been lodged at P.S. Bahin, District Palwal which is attached with the petition as Annexure P-1.”

During the course of investigation, the victim was medico legally examined at Civil Hospital Palwal. Sealed parcels handed over by the doctor were taken into possession through seizure memo. She was produced before the learned Ilaqa Magistrate for getting her statement recorded u/s 164 Cr.P.C. (now 183 BNSS). Investigation Officer visited the place of occurrence and prepared the rough site plan. Statements of witnesses at various stages of investigation were also recorded.

The complainant party produced the motorcycle bearing Registration No. UP-85-CP-1172 and a mobile phone handset (Make: VIVO 29) belonging to the accused, both of which were taken into possession. Petitioner was arrested on 08.08.2025. He identified the motorcycle and the mobile phone handset as his own, was also got medico-legally examined. The sealed parcels handed over by the doctor were taken into possession by the Investigating Officer.

During the course of Interrogation, present petitioner namely Munasib @ Kala confessed to his involvement in the commission of offence and also disclosed the names of his other three accomplices, who, according to him, had played an active role in the entire incident. The persons named by petitioner were Azad, son of Yusuf and Jilsad son of Samsudddin, residents of village Kot, Police Station Bahin, District Palwal. Accordingly, CD No. 03 dated 08.08.2025 were registered. However, no involvement of Rohit @ Rohid son of Iqbal and Mustakeem son of Bharti, residents of Bisambara, Police Station Shergarh, District Mathura, Uttar Pradesh was found. Section 70(1) BNS was not made and was accordingly deleted.

On culmination of investigation, challan was filed u/s 193 (3) BNSS under Sections 64, 115, 351(3), 332(b) of BNS against the present petitioner.

3. Aggrieved by the dismissal of his application, seeking grant of bail by the learned Additional Sessions Judge, Palwal, vide order dated 28.07.2026, the present petition has been filed.

4. Learned counsel for the petitioner contends that petitioner aged about 22 years with clean past antecedents, has been falsely implicated in the present case. The sequence of events did not unfold in the manner as portrayed by the victim. In fact, prior to her wedding, victim and petitioner were well known to each other and were emotionally involved. Somehow, she got married to another person, but continued to be in-touch with the petitioner. Even in her statement u/s 164 of Cr.P.C. (now Section 183 of BNSS), she categorically stated that she was earlier involved with the petitioner. Further her allegation that the petitioner continued to stalk and threaten her deserves not to be taken note of, for its sounds strange to common sense that petitioner alongwith the other accused visited the

matrimonial home of the victim, situated in a thickly populated area at odd hours and violated her person. Further, her plea that she raised an alarm and cried for help, but none came to her rescue also does not *gel* with common sense. Her plea that petitioner had been threatening and forcing her to maintain physical proximity with him on the ground that he has in his possession certain objectionable videos of her, which he would circulate also appears to be an afterthought for during the course of interrogation, no such video was ever recovered.

Continuing further, learned counsel submits that the falsity of the case set up against petitioner is further evident from the testimony of the victim herself, who while appearing in the witness box as PW-1, resiled from her earlier statement given before the police authorities and deposed that the petitioner and co-accused Rohit did not commit any wrong with her, nor did they click any obscene videos or photographs of her.

Although she was declared 'hostile' at the request of the learned Public Prosecutor and was permitted to be cross-examined on the ground that she is suppressing truth but nothing material supporting the case of prosecution could be elicited from her cross-examination. On similar lines is the testimony of her brother i.e. complainant, who appeared as PW-2.

In light of the aforesaid submissions, learned counsel contends that the star witnesses of the prosecution case having been already examined and not supporting the prosecution version, further incarceration of petitioner would not serve any useful purpose as the same would be violative of the fundamental rights. Prayer for allowing the petition has been made.

No meaningful arguments were advanced by the learned State

Counsel except to submit that, considering the seriousness and gravity of the allegations, no case for grant of bail is made out. Accordingly, dismissal of the present petition has been prayed for.

5. I have heard the learned counsel for the parties and with their able assistance, perused the record available on record.

6. It is settled that grant or refusal of bail is the discretion of the Court. Factors to be kept in mind while granting the concession of bail have been discussed by the Hon'ble Supreme Court in several cases. The essence being that while exercising powers under Section 439 Cr.P.C. (*Pari materia* to Section 483 of BNSS), the Court has to take into consideration various para meters including the nature of the charge, evidence, seriousness and gravity of offence, punishments to be awarded to a person, if he is convicted, his past antecedents etc. Thus, there can be no straight jacket formula for exercising the discretion and each case has to be examined on its peculiar facts.

The Hon'ble Apex Court in ***Sanjay Chandra versus Central Bureau of Investigation (2012)1 Supreme Court Cases 49***; held as under:-

"14) 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 can be 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. 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 un-convicted 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. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson."

Hon'ble Supreme Court in ***Dataram Singh vs. State of Uttar Pradesh & Anr., 2018(2) R.C.R. (Criminal) 131***, elaborated upon the factors to be kept in mind while deciding bail and reiterated 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. Hon'ble Apex Court further held that while considering prayer for grant of bail, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Hon'ble Apex Court further held that if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimized, it would be a factor that a judge would need to consider in an appropriate case.

In view of the settled proposition of law, submissions advanced by the learned counsel for the petitioner, but without adverting to the merits of the case, lest it may prejudice the trial, this Court is of the opinion that petitioner is entitled to concession of bail, his further detention in the light of the fact that the star-witness of the prosecution story i.e. the victim has already been examined (who has not supported the case of the prosecution), would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial.

Resultantly, petitioner is granted the concession of bail subject to his furnishing bail/surety to the satisfaction of the learned Duty Magistrate/trial Court concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) The petitioner will not tamper with the evidence during the trial.*
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) The petitioner shall not commit an offence similar to the offence of which, she is an accused, or for commission of which she is suspected of.*
- (vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vii) The petitioner shall not in any manner misuse his/her liberty.*
- (viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation*

to the learned Trial Court, stating the reason for the same.
(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

25.05.2026
Kamal Gandhi

(AARADHNA SAWHNEY)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>