



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(204)

CRM-M-23504-2025 (O&M)
Date of Decision: 27.1.2026

MOHIT TANWAR

.....Petitioner

Versus

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Gaurav Singla, Advocate
for the petitioner.

Ms. Saumya Ahluwalia, Sr. DAG, Haryana

KIRTI SINGH, J. (ORAL)

1. Mr. Gaurav Gupta, Advocate puts in appearance on behalf of respondent No.3 and files his memorandum of appearance, which is taken on record.
2. Prayer in the present petition filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS'), is for grant of anticipatory bail to the petitioner, in case FFIR No.53 dated 07.03.2025 registered under Section 351(3) of Bharatiya Nyaya Sanhita, 2023 and Sections 6 & 17 of Protection of Children from Sexual Offences Act, 2012 (Section 319(2) of BNS, 2023 and Section 21 of POCSO Act, 2012 were added later on) at Police Station Kheripul, District Faridabad.
3. Vide order dated 31.10.2025 passed by the Coordinate Bench of this Court, the petitioner was directed to join investigation. The said order is reproduced hereinafter:-



“The petitioner has filed the instant petition under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of anticipatory bail in case FIR No.53 dated 07.03.2025 registered under Section 351(3) of Bharatiya Nyaya Sanhita, 2023 and Sections 6 & 17 of Protection of Children from Sexual Offences Act, 2012 (Section 319(2) of BNS, 2023 and Section 21 of POCSO Act, 2012 were added later on) at Police Station Kheripul, District Faridabad.

Brief facts of the case are that on 07.03.2025, complainant (the father of the prosecutrix) came along with his daughter and made a written complaint to the police stating therein that his daughter, who is 17 years old, told him that the co-accused Vinkal and Bhumi, who are her college friends, have forcefully provided her the mobile number of Mohit Tanwar (the present petitioner) and forced her to meet the petitioner. On her refusal, they threatened her that they will not give her notes and would discontinue friendship with her. Due to compulsion, the prosecutrix had to go with co-accused Vinkal and Bhumi to meet the petitioner. In the month of November end, the petitioner intercepted the prosecutrix on her way to college at Kheripul and took her to Hotel Dollor in New Bharat Colony under threat and there booked a room on fake ID of prosecutrix in the name of one Nisha and took the prosecutrix in the hotel room and forcibly committed aggravated penetrative sexual assault upon her and threatened her that in case she disclosed the incident to anybody, he would kill her and her family members. Prosecutrix told the incident of rape to her friends co-accused Vinkal and Bhumi but instead of favouring the prosecutrix, they stood with the petitioner and asked the prosecutrix to follow the petitioner's instructions, if she did not want to be defamed. On 16.12.2024, her friends called the petitioner in the college and send the prosecutrix forcibly with him at his house in village Badrola, where also the petitioner committed aggravated penetrative sexual assault upon her. At that time, parents of the petitioner were also present in the house. On 24.01.2025, the petitioner again took the prosecutrix at Hotel Dollor and committed rape upon her. The petitioner forcibly administered abortion pills to the prosecutrix. Co-accused Bhumi and Vinkal along with the petitioner in conspiracy with each other made an audio in order to conceal the offence and also planned to entice away the prosecutrix. On the basis of the said complaint, the instant FIR was registered.

Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in the present case. He further submits that age of the prosecutrix was more than 17 years at the day of incident which is on the borderline of majority. He has further submitted that there is an inordinate and unexplained delay of about three months in lodging the FIR, as the incident is alleged to have happened in the month of November, 2024 and even complainant came to know about the same in the month of January, 2025, however, the FIR has been registered in the month of March, 2025. He has further submitted that the relationship between the



petitioner and the prosecutrix was consensual in nature and they wanted to get married with each other and the prosecutrix had voluntarily gone with the petitioner. In support of the said contention, he has referred to the photographs of the petitioner with the prosecutrix (Annexure P-2) and WhatsApp chat exchanged between them (Annexure P-3). When the complainant came to know about the said relationship, he locked the prosecutrix in the house and did not allow her to go outside and at that time, she made a video and mentioned that she wants to marry with the petitioner and her family does not agree with this and they also gave threat to her. The pendrive containing the said video is also attached as (Annexure P-4). He has further submitted that the statement given by the prosecutrix under Section 183 of BNSS, 2023 was also under pressure of the complainant/father. He has also submitted that the petitioner is not involved in any other case and is ready to join the investigation.

Per contra, learned State counsel, while referring to the averments made in the status report, has vehemently opposed the prayer for grant of anticipatory bail to the petitioner on the ground that the allegations against the petitioner are serious in nature. She further submitted that custodial interrogation of the petitioner is required in this case, therefore, he does not deserve the concession of anticipatory bail.

I have heard learned counsel for the petitioner and learned State counsel and perused the relevant documents. The objects and reasons of the POCSO Act are to protect children from offences of sexual assault, sexual harassment and pornography. However, a large array of cases filed under the POCSO Act seems to be those arising on the basis of complaints registered by the families of adolescents and teenagers who are involved in romantic relationships with each other. The scheme of the Act clearly shows that it did not intend to bring within its scope or ambit, cases of the nature where adolescents or teenagers involved in romantic relationships are concerned.

Although, as per settled proposition of law 'consent of the minor is immaterial and has no relevance under the POCSO Act, 2012', however, in the instant case, the FIR has been lodged by the complainant (father of the prosecutrix) where the prosecutrix was above 17 years and knowingly indulged into romantic relationship with the accused with her free will and consent which clearly reflects a consensual relationship between the two and merely because she has not touched 18 and barely a few months away from attaining majority, as per law, whether the act of aggravated penetrative sexual assault upon her would amount to an offence of rape, is a matter of trial.

Furthermore, in the FIR the complainant (father of the prosecutrix) has made specific allegations of rape committed by the petitioner upon her daughter and the prosecutrix in her statement recorded under Section 183 of BNSS, 2023 has also reiterated the



allegations levelled in the FIR, however, from the evidence adduced by the petitioner in present case i.e. photographs and WhatsApp chats annexed with the petition as Annexures P-2 & P-3, it appears that the relationship between the petitioner and the prosecutrix was consensual in nature and seems that the prosecutrix eagerly wanted to get married with the petitioner and for the said purpose she was even ready to leave her family.

In view of the facts and circumstances of the case and without commenting upon the merits, at this stage liberty of the petitioner cannot be curtailed. Accordingly, arrest of the petitioner shall remain stayed. He shall join the investigation and co-operate with the investigating agency and shall not leave country without prior permission of this Court.

Adjourned to 27.01.2026 for further consideration.”

4. Learned State counsel on instructions from ASI Virender, submits that in compliance of order dated 31.10.2025, the petitioner has joined the investigation and is not required for any further investigation.

5. Having considered the aforesaid facts and circumstances, the petition is allowed. Order dated 31.10.2025 passed by this Court, is hereby made absolute.

6. This order should not be treated as "blanket" order. It will not be read granting the petitioner(s) indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

7. This order does not in any manner limit or restrict the rights or duties of the police or investigating agency to investigate into the charges against the petitioner(s).

8. The accused-petitioner(s) 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 or her from disclosing such facts to the Court or to any police officer.

9. The accused-petitioner(s) shall not leave India without prior

permission of the Court.



10. The accused-petitioner(s) shall join the investigation as and when called by the police.

11. It will be open to the police or the investigating agency to move to this Court for a direction under Section 483(3) of BNSS, 2023 (erstwhile Section 439(2) of Cr.P.C.) to arrest the accused-petitioner(s), in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

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

(KIRTI SINGH)
JUDGE

January 27, 2026
Ithlesh

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