



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

(214)

CRM-M-24378-2026 (O&M)

Date of Decision: 06.05.2026

BALWINDER SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Raghav Soni, Advocate and
Mr. Manish Kansra, Advocate
for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 BNSS has been invoked for grant of regular bail to the petitioner in case FIR No. 199 dated 31.12.2023 under Sections 363 and 366-A IPC (Section 376 IPC and Section 6 of the POCSO Act, 2012 were added later on), registered at Police Station Sadar Patti, District Tarn Taran.

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

“Statement of Prabhjit Singh, son of Gurdev Singh, resident of Patti Nava Kila Sabhra, aged about 24 years, it is stated that I resident of aforementioned address and works as a laborer. We are five brother and sisters., in which I am eldest of all. My younger brother is Lovejit Singh, younger to him sister Gxxxxx, younger to her sister Hxxxxxx, and the youngest sister is Axxxxx. My sister Hxxxxx and in my neighborhood Kxxxxx, daughter of Mukhinder Singh, resident of Patti Nava Kila Sabhra, aged about 17/18 years old, both worked as sweepers in people's homes in the outer fields. A few days ago, Hxxxxx and Kxxxxx did not return home from work, and we are searching for them among our relatives ever since. We have suspicion that our neighbor Balwinder Singh, son of Bohar Singh, and Sarwan Singh Sonu, son of Amrik Singh, also their neighbor, did the same with Kxxxxx, under the pretext of marriage. I was coming to inform you, you met, statement is got recorded, heard, found to be correct. Appropriate legal action be taken.”



3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the instant case, which was registered on the statement made by the complainant/brother of the victims. It is submitted that the age of the prosecutrix, the allegations of enticing away whom have been levelled against the petitioner, is a disputed question of fact. Moreover, she had left her home on her own volition, and there was no element of threat or inducement at the end of the petitioner. There is also no cogent evidence on record to establish the said offences against the petitioner. Rather, in their statements made before the learned trial Court, the complainant and the prosecutrix linked to the petitioner, did not support the case of the prosecution and were accordingly declared hostile. Learned counsel further submits that the similarly situated co-accused has been granted the concession of regular bail by this Court vide order dated 15.01.2026 passed in CRM-M-18658-2025. The petitioner, now aged about 25 years, has already undergone an actual custody of 9 months and 28 days. There is no other case registered against him.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. She states that the petitioner was actively involved in the commission of the offence. She 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 9 months and 28 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The charges were framed on 20.05.2024 and out of a total of 19 prosecution witnesses, 10 have been examined. She 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, a gainful reference can 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 20.05.2024. Yet, only 10 out of 17 cited prosecution witnesses have been examined. The pace of the proceedings, thus, indicates that the conclusion of trial is not imminent. The petitioner has already remained in actual custody for a period of 9 months and 28 days. It is also not disputed that he has no criminal antecedents and is not involved in any other case.

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. Moreover, it is noted that the material witnesses during the course of their examination before the trial Court, did not support the prosecution version and have been declared hostile. While it is settled that the probative value of such testimony is a matter for appreciation at the stage of final adjudication of the case, yet, even while refraining from entering into any conclusive evaluation thereof, this factum cannot be completely overlooked. 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.

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

(KIRTI SINGH)
JUDGE

May 06, 2026
Itilesh

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