



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

**210**

CRM-M-30432-2026

Date of decision: 01.07.2026

Ashok Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

**CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY**

Present : Mr. Manu Loona, Advocate for the petitioner.

Mr. Gurdeep Singh, AAG, Punjab.

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**AARADHNA SAWHNEY, J.(ORAL)**

1. This is the second petition under Section 483 BNSS filed by petitioner, an accused in case bearing FIR No. 187 dated 15.09.2023 registered against him, for commission of offences punishable u/s 376, 450 (Section 64 and 332 BNS) at Police Station Sadar Fazilka, District Fazilka, seeking the concession of bail. His first petition bearing CRM-M-60142-2025, seeking similar relief, was dismissed as withdrawn vide order dated 23.03.2026 passed by the Coordinate Bench of this Court.

2. Necessary facts as emerged from the documents on record be noticed hereinbelow:-

*“Criminal proceedings in the present case were initiated on a complaint lodged by Victim XXX, aged about 31 years, wife of YYY, resident of Village Theh Qalandar, Sadar Fazilka, a home maker by profession, who pointed therein that she had been married to YYY about 10 years ago. She and her husband are blessed with 2 children. On account of professional commitments of her husband, she and her children have been residing in her maternal village in the house of one Sher Singh, for the last 2 months. On 12.07.2023, her husband had gone out*



*for work. At about 2:00 PM in the afternoon, when she was alone in her house, their neighbour i.e. the present petitioner walked in. Finding her alone in the house, he (P) took her to a room inside the house and forcibly made her lie down on a cot and violated her person. Thereafter, he (P) ran away from the spot. She (Victim XXX) was totally shocked by the incident and narrated the entire facts to her sister-in-law as also to her husband, when he returned back home. On the following day i.e. 13.07.2023, she was admitted to Civil Hospital, Fazilka where she was medico legally examined. With this backdrop, she requested the police authorities to catch hold of the accused, who had raped her.*

*It further emerges from documents on record that the police team met the Victim, she requested for grant of time to get her statement recorded. Even on 18.07.2023, she again sought further extension. On 21.07.2023, the police authorities incorporated this fact vide rapar No.24. Finally, on 18.08.2023, her statement was recorded. After verifying the facts, criminal proceedings in the shape of present FIR bearing No. 187 dated 15.09.2023 u/s 376, 450 (Section 64 and 332 BNS) at Police Station Sadar Fazilka, District Fazilka were registered against the present petitioner.*

During the course of investigation, petitioner was arrested on 18.09.2025. Vaginal swabs of the Victim and blood samples of the petitioner were deposited in FSL, Mohali. Victim was also produced before the learned Magistrate for getting her statement recorded u/s 164 Cr.P.C (Section 183 BNSS).

On culmination of investigation, challan was filed.

The first petition filed by the petitioner, seeking similar relief, was dismissed as withdrawn from the Coordinate Bench of this Court vide order dated 23.03.2026 passed in CRM-M-60142-2025.



3. Learned counsel for the petitioner contends that petitioner, aged about 35 years with clean past antecedents, has been falsely implicated in the present case. Falsity of the case set up by the *Victim XXX* is apparent from the fact that there has been unexplained delay of 2 months and 3 days in lodging the FIR. This intervening period, further as per learned counsel, was misused by *Victim XXX* and her family members to concoct facts to suit their convenience and to present a coloured version. The fact that she repeatedly sought time from the police authorities to get her statement recorded, still further raises doubt on the genuineness of the story put forth by her.

It is next the submission of learned counsel that the story even otherwise as portrayed in the FIR, when perused carefully does not appear to be plausible and inspires confidence, for it cannot be believed that petitioner, who is a neighbour of the victim, forcibly entered her house situated in a thickly populated area, that too in broad daylight and violated her person and despite she raising an alarm, no one came to her rescue.

Learned counsel vehemently contends that the fact that the *Victim XXX* while appearing in the witness box as PW1 on 20.05.2026, resiled from her initial statement given to the police authorities and deposed that accused i.e. the present petitioner never trespassed in her house nor committed any wrong with her, clinches the issue in favour of petitioner.

Learned counsel contends that on 23.03.2026, when the first petition, seeking relief of bail was dismissed as withdrawn, the statement of the *Victim XXX* had not been recorded by the learned trial Court. As pointed hereinabove, on 20.05.2026, *Victim XXX* has got her statement recorded wherein she has not supported the case of the prosecution. *This being the changed circumstance*, learned counsel contends that petitioner, who has



been in custody since 18.09.2025 deserves a lenient view to be taken in his (P) favour for his further incarceration would not serve any useful purpose as the same would be violative of his fundamental rights guaranteed under Article 21 of the Constitution of India. Further, as per learned counsel, petitioner undertakes to abide by all the conditions so imposed by the Court, while extending the concession of bail to him. Prayer for allowing the petition has been made.

4. *Per contra*, while opposing the request for grant of bail, learned State counsel contends that in the light of seriousness and gravity of the offence and the role played by the petitioner, no case for grant of bail is made out, for if extended the concession of bail, there is every likelihood of him fleeing from the process of justice by not appearing in the Court. Dismissal of the petition has been prayed for.

5. Heard learned counsel for the parties and perused the documents 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.

7. In view of the settled proposition of law as referred above and considering the fact that star witness of the prosecution story at whose behest the criminal proceedings were initiated has been examined, this Court is of the opinion that petitioner, whose past antecedents are clean and who has been in custody since 18.09.2025, deserves to be extended the concession of bail as his (P) further incarceration would not only be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial.

8. 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 he 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 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.*

9. 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.

10. 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.

**(AARADHNA SAWHNEY)**  
**JUDGE**

**01.07.2026**  
Hemant

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