



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

203

**CRA-S-2052-2026 (O&M)
Date of decision: 24.06.2026**

Mukesh Kumar

....Appellant

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Raman Sihag, Advocate
with Mr. Jagtar Kureel, Advocate
and Mr. Neeraj Sansaniwal, Advocate
for the appellant.

Mr. Rajiv Malhotra, DAG, Haryana.

None for respondent No.2.

HARPREET SINGH BRAR J. (Oral)

1. Prayer in the instant appeal is for setting-aside the order dated 29.05.2026 passed by the learned Additional Sessions Judge, Bhiwani, vide which the concession of regular bail to the appellant has been declined. Further prayer has been made to grant the concession of regular bail to the appellant in FIR No.194 dated 12.12.2025 registered under Sections 96, 75(2), 137, 351(2), 3(5), 62, 140(3), 353(2), 239 of the Bharatiya Nyaya Sanhita, 2023 (in short 'BNS, 2023') (corresponding to Sections 366-A, 354-A, 361, 506, 34, 511, 364, 505 and 202 of IPC), Sections 8, 12, 21 of the Protection of Children from Sexual Offences Act (in short 'POCSO Act') and Sections 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)



Act (in short 'the SC/ST Act'), at Police Station Behal, District Bhiwani.

2. The brief facts of the case are that a complaint has been given by the father of the victim namely Sxxx alleging that accused Ravi Azad along with 2-3 other persons, at village Hariyawas around 15-20 days prior to the complaint, took away the minor daughter of the complainant (whose date of birth is 05.09.2009) in Innova car bearing No. HR-70G-3957. The victim told her father that she was standing at the bus stand of Village Gopalwas for going to Behal when the said Innova car stopped there. The driver introduced himself as Ravi Azad and allured her by offering to drop her at Behal. On the way, he sexually assaulted her and used force upon her person, to which she objected. The accused represented himself to be a big leader and threatened her with dire consequences to her as well as to her family members. When she continued to object to his conduct, she was left at the bus stand of Behal. Out of fear and societal defamation, she remained silent at that time. On 08.12.2025, while she was at the cattle-shed (Bara) of her house, the same Innova car No. HR-70G-3957, in which 2-3 unknown persons were sitting, came there. They told her that accused Ravi Azad had called her and forcibly attempted to put her inside the car. When she objected and raised noise, they escaped from the spot. Thereafter, the victim narrated the entire incident to her father, who then approached the Police Station for registration of the complaint and for taking legal action against the accused. Thereafter, the impugned FIR was registered.



3. Learned counsel for the appellant *inter alia* contends that the appellant has been nominated as an accused only on the ground that he has disclosed the identity of the minor daughter of the complainant before the Panchayat and as such, the appellant is only liable for an offence under Section 72 of BNS, 2023, which is punishable upto 02 years. Further, the appellant is neither named in the FIR nor any other overt act or role is attributed to him. Learned counsel for the petitioner further submits that all the allegations are against the main accused Ravi Azad and *prima facie* no offence under the provisions of the SC/ST Act are made out against the present appellant. He further submits that the appellant is in custody since 17.03.2026. The final report has been presented before the learned jurisdictional Court and 28 PWs have been cited in the list of witnesses and as such, the trial of the case is likely to take long time.

4. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the appellant on the ground that the complicity of the appellant is duly established as he has narrated the entire incident by disclosing the identity of the minor daughter of complainant, however, he could not controvert the fact that 28 prosecution witnesses have been cited in the list of witnesses and the conclusion of the trial is likely to take some time.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the appellant is in custody since 17.03.2026 and the trial of the case



will take long time in its conclusion. The culpability, if any, would be determined at the time of trial. Keeping the appellant in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

6. A two Judge Bench of Hon'ble Supreme Court in ***“Satender Kumar Antil vs. CBI”*** (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed as under:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

7. Accordingly, without commenting upon the merits of the case, the present appeal is allowed, the order dated 29.05.2026 is set-aside and the appellant namely Mukesh Kumar, is ordered to be

2026:PHHC:088002



released on regular bail on furnishing bail bonds/surety bonds to the satisfaction of concerned Illaqa Magistrate/Trial Court/Duty Magistrate.

8. Nothing observed hereinabove shall be construed to be expression of an opinion by this Court on merits of the case. The learned Court below is directed to proceed with the matter on its own merits, lest it may prejudice the trial.

(HARPREET SINGH BRAR)
JUDGE

24.06.2026
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No