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

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Date of Decision: 24.06.2026

Gurmukh Singh

.....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. Angrej Singh Sarwara, Advocate for the petitioner.

Mr. Bhanu Pratap Singh, Addl. AG, Punjab.

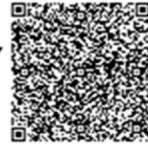
HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') (old Section 439 Cr.P.C.) seeking grant of regular bail in FIR No.76 dated 30.09.2025, registered under Sections 137(2), 87, 64(1), 75 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (old Sections 363, 366, 376(1), 354-A and 506 IPC) at Police Station Thulliwal, District Barnala.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been falsely implicated in the present case. The FIR was

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initially registered on the statement of the complainant-grandfather of the prosecutrix alleging that the prosecutrix had gone missing from her house and no accused was named in the FIR. Subsequently, the petitioner came to be nominated on the basis of a supplementary statement made by the complainant. It is further contended that even as per the prosecution case, the role attributed to the petitioner is confined to allegedly facilitating the travel of the prosecutrix, whereas the allegations of penetrative sexual assault have been levelled exclusively against the co-accused namely Akashdeep Singh @ Gagi. The petitioner is in custody since 08.10.2025. It is further submitted that the prosecutrix has already been examined as PW-2 before the learned trial Court and has not supported the prosecution case. She categorically deposed that she had left her house voluntarily after an altercation with her grandfather, remained alone during the relevant period and no wrong act was committed against her by any person. She further failed to identify the petitioner and other accused persons in Court and denied the allegations levelled against them. Consequently, she was declared hostile. Learned counsel further submits that the complainant-grandfather of the prosecutrix has since expired before his cross-examination could be conducted. Investigation stands concluded, challan has been presented and, therefore, no useful purpose would be served by keeping the petitioner behind bars for an indefinite period.

3. The present FIR was registered on the statement made by the grandfather of the prosecutrix alleging that the prosecutrix, aged about 16

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years, had gone missing on 27.09.2025 after leaving for school and that some unknown person had enticed her away. During investigation, the petitioner was nominated as an accused and, thereafter, offences under Sections 64(1), 75 and 351(2) BNS and Section 6 of the POCSO Act were added on the basis of the statement of the prosecutrix recorded during investigation. Upon completion of investigation, challan was presented and the case is presently pending trial.

4. *Per contra*, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that the allegations against the petitioner are serious in nature and involve offences under the POCSO Act. It is submitted that the prosecutrix, in her statement recorded under Section 183 BNSS (old Section 164 Cr.P.C.), had levelled specific allegations against the accused persons. However, he could not controvert the fact that the prosecutrix has already been examined before the learned trial Court and has not supported the prosecution case. He also does not dispute that the petitioner is in custody since 08.10.2025 and that the challan has already been presented before the competent Court. Custody certificate produced which is taken on record. Registry is directed to place the same at an appropriate place.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds that the petitioner is in custody as reflected in the custody certificate produced by the State. A significant circumstance which weighs with this Court is that the

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prosecutrix, who is the star witness and foundation of the prosecution case, has already been examined before the learned trial Court and has not supported the prosecution version. She has failed to identify the petitioner and denied the allegations attributed to him during investigation. It is also not disputed that the allegations of penetrative sexual assault have been levelled against the co-accused and not against the present petitioner. Furthermore, the complainant-grandfather of the prosecutrix has expired before his cross-examination could be conducted. The trial is likely to take considerable time to conclude and the culpability of the petitioner, if any, would ultimately be determined during trial. Keeping the petitioner in continued custody for an indefinite period, particularly when the material witness has already been examined, would not serve any useful purpose and would impinge upon his right to personal liberty guaranteed under Article 21 of the Constitution of India.

6. A two Judge Bench of the 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

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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. In view of the above, present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, petitioner Gurmukh Singh is ordered to be released on regular bail during trial on his furnishing bail/surety bonds to the satisfaction of learned Illaqa Magistrate/trial Court/Duty Magistrate concerned.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and learned trial Court shall proceed without being prejudiced by the observations of this Court.

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

(HARPREET SINGH BRAR)
JUDGE

24.06.2026

Puneet

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No