



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

(103)

CRM-M-34568-2026 (O&M)
Date of Decision: **30.06.2026**

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... Petitioner

Versus

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... Respondent

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Vishneet Singh Kathpal, Advocate
for the petitioner. (**Through Video Conferencing**)

Mr. I.S. Kingra, Sr. DAG, Punjab.

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VIRINDER AGGARWAL, J. (Oral)

1. The present petition has been instituted under the relevant provisions of law seeking the concession of anticipatory bail in connection with FIR No. 35 dated 06.02.2026, initially registered under Sections 70(1) and 64(2) of the Bharatiya Nyaya Sanhita, 2023 (corresponding to the erstwhile Sections 376-D and 376 of the Indian Penal Code, 1860) and Section 6 of the Protection of Children from Sexual Offences Act, 2012, at Police Station Sadar Fazilka, District Fazilka (Annexure P-1). During the course of investigation, the offence under Section 70(1) of the Bharatiya Nyaya Sanhita, 2023 was altered to Section 70(2) thereof. The petitioner asserts that he is innocent, has been falsely implicated, and has not committed any offence attracting the aforesaid penal provisions.

2. It is contended on behalf of the petitioner that the gravamen of the allegations pertains exclusively to the co-accused, Raman, who is



alleged to have committed rape upon the prosecutrix. No specific allegation of rape or any overt act constituting the offence of rape has been attributed to the present petitioner. It is further submitted that the First Information Report came to be registered after an unexplained delay of six days, thereby casting a serious doubt upon the veracity and genuineness of the prosecution version. Learned counsel further submits that the narrative put forth by the prosecutrix is inherently improbable, suffers from material inconsistencies and contradictions, and does not inspire confidence. It is also argued that, despite the alleged occurrence having taken place in a hotel, the prosecutrix neither raised any alarm nor sought assistance from the hotel staff or any other person present at the spot. It is further contended that the investigation has not been conducted in a fair, impartial, and objective manner. It is additionally submitted that the investigation stands concluded, the final report has already been presented before the learned Trial Court, the trial has commenced, and the prosecution evidence is presently being recorded.

3. Learned counsel for the petitioner further submits that the only allegation attributed to the petitioner is that he had brought a soft drink for respondent No. 2 and the co-accused, Raman, following which respondent No. 2 allegedly became unconscious. It is argued that the allegation regarding the administration of an intoxicating substance rests solely upon the uncorroborated statement of the prosecutrix and is unsupported by any independent, scientific, or medical evidence. It is further contended that the FIR was initially registered under Section 70(1) of the Bharatiya Nyaya Sanhita, 2023 and Section 6 of the Protection of Children from Sexual Offences Act, 2012; however, during the course of investigation,



and without any fresh incriminating material or additional evidence having surfaced, the investigating agency altered the offence to Section 70(2) of the Bharatiya Nyaya Sanhita, 2023 while presenting the final report before the learned Trial Court. It is, therefore, submitted that the custodial interrogation of the petitioner is neither necessary nor warranted and that no useful purpose would be served by subjecting him to arrest at this stage. On these premises, it is prayed that the petitioner be granted the concession of anticipatory bail.

4. I have heard learned counsel for the parties at considerable length and have carefully perused the paper-book, including the pleadings and the material placed on record.

5. As per the narrative contained within the FIR, the allegations against the accused-applicant are that the prosecutrix, a minor aged approximately 15 years, was waiting at a bus stop on 28.01.2026 at about 3:30 PM to commute home from school. The co-accused arrived on a motorcycle and offered her a lift. Under this pretext, he instead transported her to a secluded area, where he staged a mechanical breakdown of his vehicle. The co-accused then placed a phone call to his associate, the present accused-applicant, Sonu.

5.1. Upon arrival, the applicant allegedly provided a cold drink to the prosecutrix, which was purportedly laced with a sedative, causing her to lose consciousness upon consumption. When the prosecutrix regained consciousness, the co-accused, Raman, and the applicant, Sonu, informed her that they had recorded a video of the co-accused committing an explicit and unlawful act upon her person. They explicitly threatened to



circulate and make this video viral across public platforms should she disclose the incident to anyone.

5.2. Subsequently, on 30.01.2026, the accused coerced the prosecutrix into traveling to Fazilka under the renewed threat of leaking the aforementioned video. Compliance was extracted through this systemic extortion. Upon her arrival at the Fazilka bus stand via public transit, both accused persons met her, forced her onto their motorcycle, and transported her to a commercial establishment known as 'Joginder Singh's Dhaba' in Fazilka. At this location, the co-accused, Raman, allegedly committed the offense of rape upon her without her consent. Following the commission of the alleged offense, the prosecutrix was dropped back at the Fazilka bus stand, from where she returned home and promptly disclosed the entire occurrence to her mother.

6. The allegations leveled against the accused-applicant are of a grave and heinous nature, specifically involving the commission of gang rape upon a minor child. Consequently, the investigation culminated in the filing of the *challan* (final report) under Section 70(2) of the Bharatiya Nyaya Sanhita (BNS), 2023, given that the prosecutrix was approximately 15 years of age at the time of the alleged offense. While the principal co-accused has already been apprehended and the *challan* qua his involvement stands presented before the learned trial Court, the present applicant-accused continues to evade arrest.

6.1. By operation of law, the statutory framework explicitly bars the grant of pre-arrest bail in offenses of this magnitude. Pursuant to the proviso of sub-section (4) of Section 482 of the Bharatiya Nagarik



Suraksha Sanhita (BNSS), 2023, the remedy of anticipatory bail is strictly non-maintainable and inapplicable where the accusation involves the commission of gang rape upon a minor girl under the age of sixteen years. The relevant statutory provision of Section 482(4) of the BNSS, 2023 is reproduced in extenso hereinbelow:-

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- (4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under Section 65 and sub-section (2) of Section 70 of the Bharatiya Nyaya Sanhita, 2023.

7. In the facts and circumstances of the present case, the investigating agency has rightly presented the challan against the co-accused for the offence punishable under Section 70(2) of the Bharatiya Nyaya Sanhita, 2023, having regard to the specific allegations and the admitted age of the prosecutrix. Once the accusation falls within the ambit of the said provision, the statutory bar engrafted under Section 482(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023 becomes fully operative. The legislative mandate is unequivocal that the remedy of anticipatory bail is unavailable in cases where the accusation relates to the commission of gang rape upon a minor girl. Consequently, the provisions governing the grant of anticipatory bail are rendered wholly inapplicable to the facts of the present case. The present petition, therefore, is barred by the express statutory prohibition contained in Section 482(4) of the BNSS, 2023 and is, accordingly, held to be not maintainable. Finding no merit in the petition, the same is hereby **dismissed**.

8. Consequent upon the final adjudication of the present petition, all pending miscellaneous applications, if any, arising out of or connected



with the instant proceedings, shall also stand disposed of. No separate or further orders are required to be passed in respect thereof.

30.06.2026
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No