



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

(115)

CRM-M-37363-2025 (O&M)
Date of Decision: 25.2.2026

Rahul

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Sanchit Punia, Advocate
for the petitioner.

Ms. Saumya Ahluwalia, Sr. DAG, Haryana.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No. 67 dated 25.1.2023 under Sections 363, 366-A, 376(2)(n) and 376(3) IPC and Section 6 of the POCSO Act, registered at Police Station Barwala, District Hisar.

2. The facts in brief are that on 25.1.2023, the complainant got recorded his statement to the police, alleging therein that his daughter, aged 14 years, has been kidnapped by the petitioner.

3. Thereafter, investigation was carried out. On 27.1.2023, the prosecutrix was recovered and her statement under Section 164 Cr.P.C. was recorded on 28.1.2023.

4. Learned counsel for the petitioner *inter alia* submits that the petitioner, who is a young boy aged 21 years, has been falsely implicated in

this case on the statement of the complainant, levelling allegations that the



petitioner enticed away her minor daughter. In fact, the petitioner and the prosecutrix were well known to each other. The prosecutrix in her statement recorded under Section 164 Cr.P.C. has specifically stated that they wanted to marry each other, and initially their parents were in agreement to the said marriage but later on they refused. Therefore, she on her own will, went away with the petitioner on 25.1.2023 and visited various places. It is further submitted that the material witnesses i.e. the prosecutrix and the complainant have been examined and there is material improvements in their respective statements. Learned counsel contends that the subsequent adverse statement of the prosecutrix was made only on account of family pressure. Even, the FSL report also does not substantiate the allegations so levelled. Moreover, since the material witnesses stand examined, there is no apprehension of the petitioner influencing the witnesses. He further submits that the petitioner, who too was aged about 19 years at the relevant time, has undergone an actual custody of 03 years and 25 days and there is no other criminal case registered against him.

5. *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 03 years and 25 days. The learned State counsel, on instructions from the investigating officer concerned, submits that in the present case, charges were framed on 31.5.2023 and out of total 17 prosecution witnesses, 07 have been examined till date. She submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.



6. Heard the rival submissions made by learned counsel for the parties.

7. In the present case, charges have been framed in relation to offence under Section 6 of the POCSO Act. The same attracts the provisions of Section 29 of the said Act, the bare language of which speaks about the adverse presumption to be drawn against a person prosecuted for committing or abetting or attempting to commit any offence under Sections 3, 5, 7 and Section 9 of the Act unless the contrary is proved, thereby raising the threshold of satisfaction required.

8. Reverting to the case in hand, despite the charges having been framed on 31.5.2023, only 7 witnesses, out of a total of 17 prosecution witnesses have been examined till date. The petitioner has undergone actual custody of 03 years and 25 days, and there is no other criminal case registered against him. The prosecutrix had given a statement in favour of the petitioner before the Magistrate under Section 164 Cr.P.C.; has changed her stance as a prosecution witness. DNA report is inconclusive. The veracity of the allegations levelled against the petitioner shall be established during the course of the trial. No useful purpose shall be served by further detention of the accused-petitioner. Keeping the petitioner 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 including the right to speedy trial, and is against the principle "Bail is a rule, jail is an exception" as elucidated in the judgment of Apex Court in **"Dataram Singh vs. State of Uttar Pradesh and another", (2018) 3 SCC 22.**

9. A gainful reference can also 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."

10. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following 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. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

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

(KIRTI SINGH)
JUDGE

February 25, 2026
Gurpreet Singh

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