



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

(210)

**CRM-M-41727-2025
Date of Decision: 19.1.2026**

Avinash Kumar

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. D.S.Virk, Advocate
for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

Mr. M.S.Dhillon, Advocate
for respondent No. 2 (through V.C.)

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. 14 dated 07.5.2025 under Sections 64, 75(b) of BNS and Section 6 of the POCSO Act, registered at Police Station Women, District Patiala.
2. The present case has been registered against the petitioner and other on the basis of the order dated 5.5.2025 passed by the learned Magistrate concerned in case bearing No. 430 of 2025 titled as 'Sonia versus State of Punjab and others' on the application under Section 175(3) of BNSS for lodging FIR against the accused persons. The complainant in the said application has stated as under:-

“She was residing with her maternal grandmother in a rental accommodation in her childhood and the accused Avinash was residing near to her house. In the year 2015, when the complainant was only 14 years of age, they both became friends and started



talking on mobile phone. The accused started saying that he wanted to perform marriage with her. In the month of March 2019, the accused took her to his house and tried to rape her and on refusal of the complainant, the accused promised that he wanted to perform marriage with her and wanted to make physical relations. On this complainant told him that she is minor and could not perform the marriage with him. Thereafter, the accused again took the complainant to his house and introduced her with his mother and she consented for their marriage and told her that whenever accused Avinash and she would become major, she will perform their marriage. Thereafter, accused Avinash made physical relations with complainant forcibly on various occasions. Whenever, the complainant asked to accused to preform marriage with her, he started lingering on the matter on one pretext or another. Thereafter, he again took the complainant to his house and asked her to reside with him and stated that they will perform marriage only when they become major. On the assurance of marriage, accused made physical relations with the complainant and she became pregnant. Thereafter, the complainant gave birth to a male child on 5.5.2022 at Rajindra Hospital, Patiala, but the accused Avinash did not perform marriage with her and used to give beatings to her under the influence of drugs. The accused Ajay @ Makhan and Vijay are the friends of accused Avinash and they used to come to his house of accused and they also physically harassed the complainant on dated 20.01.2024, when the complainant was alone at her home and molested her. Thereafter, accused had thrown out the complainant from the house and snatched her male child from her. The complainant has prayed for taking action against the accused persons.”

3. Vide order dated 16.10.2025 the petitioner was granted interim bail to enable him to perform marriage with the victim. The said order is reproduced as under:-

“x x x x

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. He further submits that the victim has been examined, who has not supported the case of the prosecution. She has stated in her



statement that she want to get married with the petitioner and she has completed 18 years of age in the year 2021. She came into physical relations with the petitioner-accused with her own free will and consent after she completed the age of majority as they both were willing to get married to each other. She had given birth to a male child, namely, Kabil, on 05.05.2022 and the accused-petitioner is the father of the child and both of them will get married as soon as possible.

Learned counsel for the petitioner further submits that the petitioner is ready to marry the victim, if released on regular bail. He further submits that the investigation is complete, challan has been presented, charges have been framed and out of 15 prosecution witnesses, only 01 has been examined.

Learned counsel for the victim submits that she is also ready to perform marriage with the petitioner and has no objection if the petitioner is released on bail.

Keeping in view the above, the petitioner is granted interim bail for a period w.e.f. 17.10.2025 to 18.01.2026 to enable him to perform the marriage with the victim, on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. He shall surrender in the concerned jail on 19.01.2026.

Adjourned to 19.01.2026.”

4. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. In fact, the petitioner and the prosecutrix were well known to each other, and now they have solemnized marriage on 10.11.2025. It is further submitted that the prosecutrix has been examined before the learned trial Court, however she has not supported the prosecution version. He further submits that the petitioner has undergone an actual custody of 05 months and 13 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 05 months and 13 days. The learned State counsel, on instructions from ASI

Balkar Singh, submits that in the present case, charges were framed on



25.8.2025 and out of total 15 prosecution witnesses, 01 has 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. Admittedly, the charges were framed on 25.8.2025 and out of total 15 prosecution witnesses, only 01 witness i.e. the prosecutrix has been examined till date, who has not supported the case of the prosecution. The petitioner has undergone actual custody of 05 months and 13 days, and there is no other criminal case registered against him. 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.**

8. 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.

9. 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.

10. 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.

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

(KIRTI SINGH)
JUDGE

January 19, 2026
Gurpreet Singh

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