



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

(118)

CRM-M-42006-2025 (O&M)
Date of Decision: 23.3.2026

Kapil Kaushik

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Mohit Rana, Advocate and
Mr. Ravi Solanki, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Ms. Samanpreet Kaur, Advocate (Legal Aid Counsel)
for respondent No. 2.

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. 214 dated 09.7.2025 under Sections 64(2)(B), 115 and 351(3) of BNS, 2023, registered at Police Station Kheripul, District Faridabad.

2. The translated version of the FIR is reproduced below:-

“Sir, I, xxxxx, wife of Aman, resident of House No. 2654, Jawahar Nagar, Faridabad. I had a daughter on 13 AUGUST 2023. Since my child was small, I was searching for WORK FROM HOME opportunities, and my friend Diksha got me a job at KMV KNOWLEDGE HUB on 1 DECEMBER 2023. The owner of this company is Kapil Kaushik, resident of RZE-56A, New Roshapura, Newar Shiv Mandir, Najabgarh, Delhi. Initially, Kapil Kaushik taught me work online. In FEB 2024, I went to NIT MARKET with my friend Diksha. Diksha told me in the market that the boss had come and wanted to meet me. Diksha then took me to Kapil's car, where Kapil took cold drinks and offered them to both of us, and



started taking selfies with us. I didn't like all this, and I took Diksha Diksha and came back home. After that, Kapil Kaushik started repeatedly calling and harassing me. On 27 July 2024, I received a call from Kapil Kaushik. He told me to meet him to sign my EMPLOYEE ID. When I went to meet Kapil to sign the EMPLOYEE ID, he took me in front of New Friend Hotel Mewal Road Khedipul, Faridabad and asked me to go inside the hotel. When I refused to go inside, Kapil called my husband, but my husband did not pick up the phone, He then threatened me and forcibly took me to OYO HOTEL New Friend and started forcing himself on me. When I refused to be forced, Kapil slapped me and forcibly raped me, and threatened to send my Photos/Videos to my husband. After that day, Kapil repeatedly raped me many times, threatening to viral my photos/videos. Kapil used to come in his Swift white car and even raped me many times on road. Out of fear of my photos/videos being leaked, I did not tell anyone and I lived in constant fear and anxiety. Then Kapil started forcing me to go with his friends, after which I quit the job. But Kapil still calls and harasses me repeatedly and threatens to kill me. When I finally gathered courage, I told everything to my mother and husband. Kapil still has my photos/videos, which he keeps threatening to make viral. Kapil has raped me many times. An FIR should be registered against Kapil and strict action should be taken.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner, aged 27 years, has been falsely implicated in this case by the complainant-prosecutrix. In fact, the prosecutrix herself is a married woman and having a child, therefore, the question of false promise of marriage does not arise. It is submitted that the nature of the relations between the parties was consensual throughout. It was only when due to temperamental differences that things had to be ended and the petitioner decided to solemnize marriage with another girl, the prosecutrix got registered the present FIR against the petitioner. It is further submitted that as per the allegations, the prosecutrix was forcibly taken to a hotel by the petitioner on

the first date of occurrence, where the petitioner has allegedly violated her.



However, as per the hotel records, the prosecutrix herself signed the register and submitted her identification documents. Learned counsel places reliance on whatsapp chats (Annexure P-4) and the photographs/screenshots (Annexure P-5) to contend that the allegations of blackmailing and coercion against the petitioner are unfounded. Furthermore, the FIR does not specify the last date of alleged violation, and the allegations remain vague and unsubstantiated. It is also submitted that on two occasions, the petitioner was released on interim bail from 28.10.2025 to 06.1.2026 and 15.1.2026 to 30.1.2026, whereafter he has surrendered before the jail authorities and has not misused the concession of interim bail. Moreover, the victim has already been examined before the learned trial Court. He further submits that the petitioner has undergone an actual custody of 05 months and 16 days and there is no other criminal case registered against him.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He 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 16 days. The learned State counsel, on instructions from the investigating officer concerned, submits that in the present case, charges were framed on 17.10.2025 and out of total 18 prosecution witnesses, 01 has been examined till date. He submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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

6. Before proceeding, a gainful reference can be made to the



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."

7. Reverting to the case in hand, it is borne out from the record that charges came to be framed on 17.10.2025. Yet, only 01 out of 18 cited prosecution witness has been examined. The pace of the proceedings, thus, indicates that the conclusion of trial is not imminent. The petitioner has already remained in actual custody for a period of 05 months and 16 days. It is also not disputed that he has no criminal antecedents and is not involved in any other case.

8. While the truthfulness or otherwise of the allegations levelled against the petitioner, and the culpability, if any, would be tested and determined on the touchstone of evidence during the course of trial, the

parameters governing the grant of bail necessitate a balanced consideration



of the nature of accusation, the stage of the trial, the antecedents of the accused, and the likelihood of his absconding or influencing the course of justice.

9. Presently, no material has been placed on record to suggest that the petitioner poses a flight risk or that his release would impede the fair conduct of the trial, particularly when the material witness stands examined. Therefore, upon taking into account all the considerations stated hereinbefore, and without expressing an opinion on the merits of the case lest it may prejudice the trial, this Court is of the opinion that the continued detention of the petitioner, in the backdrop of the pace of the proceedings and the substantial period of incarceration already undergone, would not advance the cause of justice. The guarantee of personal liberty under Article 21 of the Constitution of India, which includes the right to a speedy trial, obliges the Court to ensure that pre-trial incarceration does not assume a punitive character. The prolonged incarceration, without the prospect of the trial being concluded in the near future, would also run contrary to the settled legal principle that 'bail is the rule and jail is the exception', as reaffirmed by the Hon'ble Supreme Court in ***Dataram Singh vs. State of Uttar Pradesh and another (2018) 3 SCC 22***.

10. Accordingly, the present petition is allowed, and to ensure that the interests of justice are adequately safeguarded, the petitioner is ordered to be released on regular bail upon furnishing of adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate, subject to the following terms and 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. It is reiterated that the observations made in hereinabove are only for the purpose of adjudicating the present bail petition, and must not be construed as a final expression of opinion on the merits of the case.

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

(KIRTI SINGH)
JUDGE

March 23rd, 2026
Gurpreet Singh

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