



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

(107)

CRM-M-58628-2025 (O&M)

Date of Decision: 08.5.2026

Abhey

.....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.

Mr. S.K.Sirsa, Advocate for the complainant.

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. 322 dated 20.4.2025 under Sections 351(3), 64(1), 76 and 140(3) of BNS and Section 4 of the POCSO Act, registered at Police Station Azad Nagar, Hisar, District Hisar.

2. Brief facts of the instant case are that on 20.4.2025, the complainant moved a complaint to the police stating therein that his daughter aged 16 years had been missing since 6.30 P.M. yesterday. They searched for their daughter but could not locate her. On the basis of the said statement, the present FIR was registered. During investigation, the victim was recovered from Bus Stand, Hisar. The statement of the victim under Section 183 of BNSS was also recorded.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner aged 30 years, has been falsely implicated in this case. In fact, the



petitioner and the prosecutrix were well known to each other. It is also submitted that the prosecutrix, in her statements recorded before the Legal Aid Counsel on 20.4.2025 and in her statement under Section 183 of BNSS dated 21.4.2025, has not levelled any allegation against the petitioner. However, in her subsequent statement dated 17.5.2025, she had made improvements and levelled false allegations against the petitioner. Moreover, the prosecutrix has refused to get herself medically examined. Learned counsel for the petitioner has placed on record the depositions of the material witnesses i.e. prosecutrix and the complainant to contend that the said witnesses did not support the prosecution case before the learned trial Court. Moreover, the complainant-father of the victim has turned hostile. He further submits that the petitioner has undergone an actual custody of 01 year and 16 days.

4. Learned counsel for the complainant has not disputed the averments made by the learned counsel for the petitioner.

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 01 year and 16 days. The learned State counsel, on instructions from the investigating officer concerned, submits that in the present case, charges were framed on 30.11.2025 and out of total 33 prosecution witnesses, 02 have been examined till date. It is further submitted that another FIR under Sections 115, 126, 190, 191(2), 296, 351(3) of BNS and Section 42 of the Prisons Act, besides the present FIR, was also registered against him. 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. Trite to say that at the stage of considering a petition seeking bail, the Court, though not required to make a roving inquiry into the evidence, must take into consideration the nature of the offence, severity of the punishment and *prima facie*, the involvement of the accused and the material on record.

8. Before proceeding, a gainful reference can 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."



9. Reverting to the case in hand, it is borne out from the record that charges came to be framed on 30.11.2025. Yet, only 02 out of 33 cited prosecution witnesses have 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 01 year and 16 days.

10. As regards the submission of learned State counsel that petitioner is involved in one another criminal case, it has been held by the Hon'ble Supreme Court ***in Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382*** that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced herein-below:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

11. 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/her absconding or influencing the course of justice.

12. 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. Moreover, it is noted that the material witnesses during



the course of their examination before the trial Court, did not support the prosecution version and the complainant has also been declared hostile. While it is settled that the probative value of such testimony is a matter for appreciation at the stage of final adjudication of the case, yet, even while refraining from entering into any conclusive evaluation thereof, this factum cannot be completely overlooked. 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.***

13. 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.

14. 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.

15. 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.

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

(KIRTI SINGH)
JUDGE

May 08th, 2026
Gurpreet Singh

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