



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-59659-2025 (O&M)

Date of decision: 09.01.2026

Sunil Kumar

...Petitioner(s)

VERSUS

State of Haryana and others

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Deepinder Singh Virk, Advocate for
Mr. Jaiveer Singh, Advocate for the petitioner(s).

Ms. Chhavi Sharma, AAG Haryana.

VINOD S. BHARDWAJ, J. (Oral)

CRM-34-2026

Application is allowed as prayed for subject to all just exceptions. Photocopy of medical record of the victim (Annexure P-4) is taken on record.

Registry is directed to tag the same at an appropriate place with page marking.

Main case:

1. The instant petition has been filed for grant of regular bail to the petitioner(s) in case bearing FIR No.781 dated 18.10.2023, registered under Section(s) 377, 506 of the Indian Penal Code, 1860 and Section 6 of the Protection of Children from Sexual Offences Act, 2012 at Police Station Assandh, District Karnal.

2. Briefly summarized, the facts of the present case as registered



on the statement of Ashok read as under:-

“To, The SHO Sahib, Police Station Assandh Karnal.

Against 1. Sunil son of Shri Balwan caste Dhanak resident of Ward No.06 Kabir Colony Assandh District Karnal. Sir, I humbly request that I am Ashok son of Shri Pale Ram caste Dhanak resident of Ward No.06, Kabir Colony Assandh District Karnal. That on 14.10.2023, day Saturday, the aforementioned person committed indecent acts with my son Dev age 14 years. We held a panchayat regarding this matter, and the aforementioned person repeatedly stated that he had not committed such a crime and my son had been terrified since that day, and abovesaid person had been threatening him to kill and his entire family if he filed a complaint with the Police Station. When we finally confronted my son, he openly confessed that he had committed indecent acts with him and had threatened to kill him if he told anyone. The aforementioned person intimidated my son and blackmailed him. Now, the entire matter has come to light. Therefore, I request you to have my son medically examined and take the strictest possible legal action against the aforementioned person. I shall be thankful to you. Thank you.”.

3. Learned counsel for the petitioner contends that the petitioner has undergone an actual custody of more than 02 years 02 months in the present case. He contends that only 02 out of the total 15 prosecution

witnesses have been examined so far and the trial is likely to take a long time in its conclusion. He contends that the complainant is the real paternal uncle and victim is cousin of the petitioner. He contends that the implication of the petitioner is on account of family fallout between the parties. It is submitted that even though the incident in question is stated to have taken place on 14.10.2023, however, the FIR was lodged after a delay of 04 days i.e. on 18.10.2023 without offering any reasonable explanation for such delay. He further makes a specific reference to the medico legal report. The relevant extract thereof reads thus:-

“Details regarding penetration (as narrated by the male victim/accused/guardian):

a) Was penetration attempted by penis, fingers or other object?

No

	Attention Penetration			Completed Penetration			Emission of Semen
Orifice	By Penis	By Finger	By Object	By Penis	By Finger	By Object	Yes/No/Don't know/Don't Remember/Don't Understand
Anus	No	No	No	No	No	No	No
Mouth	No	No	No	No	No	No	No

b) Was oral sex performed by assailant on the victim? (Yes/No/Don't Know/Don't Remember/Don't Understand) **No”**

4. Referring to the above, it is submitted that the information disclosed by the victim as well as the guardian fails to make out ingredients for the offence attracting Section 6 of the Protection of Children from Sexual Offences Act, 2012. He thus contends that there are various arguable



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issues for determination. Bail thus has to be allowed in the totality of circumstances, given his clean antecedents, the period of custody already undergone by the petitioner and considering the stage of trial.

5. Learned counsel for respondent-State, however, contends that the MLR in question was undertaken after a period of 04 days, hence, the injuries may have healed during the interregnum. She however does not dispute that the petitioner is not involved in any other criminal case. She submits that even though the prosecution has examined two witnesses but has also given up 04 witnesses, hence, the evidence of 06 witnesses is yet to be concluded.

6. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the instant petition with their able assistance.

7. Some of the relevant provisions of the Protection of Children from Sexual Offences Act, 2012 that are required to be kept in mind are being reproduced as under:-

“2. Definitions: xxxxxx

(a) *“aggravated penetrative sexual assault” has the same meaning as assigned to it in section 5;*

(f) *“penetrative sexual assault” has the same meaning as assigned to it in section 3;*

3. *Penetrative sexual assault.* —A person is said to commit *“penetrative sexual assault”* if—

(a) *he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with*



- him or any other person; or*
- (b) *he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or*
- (c) *he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or*
- (d) *he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person.*
5. **Aggravated penetrative sexual assault.**—(a) *Whoever, being a police officer, commits penetrative sexual assault on a child-*

xxxxxxxxxxxx

- 5.(n) *whoever being a relative of the child through blood or adoption or marriage or guardianship or in foster care or having a domestic relationship with a parent of the child or who is living in the same or shared household with the child, commits penetrative sexual assault on such child; or*

xxxxxx

- [6. **Punishment for aggravated penetrative sexual assault.**—(1) *Whoever commits aggravated penetrative sexual assault shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to*



imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person and shall also be liable to fine, or with death.

(2) The fine imposed under sub-section (1) shall be just and reasonable and paid to the victim to meet the medical expenses and rehabilitation of such victim.]”

8. It is evident from a perusal of the above that a person who commits an aggravated penetrative sexual assault is liable to be punished with rigorous imprisonment for a term not less than twenty years. An aggravated penetrative sexual assault, in the present case is, seemingly attracted on account of the inter se fiduciary relationship between the parties as prescribed under Section 5 (n) of the Protection of Children from Sexual Offences Act, 2012. A penetrative sexual assault as defined under Section 3 of the Protection of Children from Sexual Offences Act, 2012 is thus required to pre-exist before offence under Section 5 can be attracted. It is also evident from the perusal of the MLR that the extract recorded above is based upon the information furnished by the victim/guardian. Although the complainant has alleged that the victim was subject to sexual abuse by the petitioner, it is noticed by the Doctor-Mr. Sudhanshu Vats that there were no external/internal marks or injuries. Apparently, the objection of the respondent to the effect that the MLR had been undertaken after a lapse of 4 days and the signs of injuries being erased as a result thereof seems dubitable since the table of the MLR shows that it is not a case of the Doctor not reporting any injury, rather, it is a narration given by the victim himself.



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Hence, the arguable issues would arise for determination by the Court as to whether the ingredients for offence punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012 would be made out or not.

9. Taking into consideration the observations as above, the period of actual custody of 2 years 02 months undergone by the petitioner as well as the clean antecedents of the petitioner, I deem it fit to allow the instant petition.

10. Accordingly, the instant petition is allowed and the petitioner is ordered to be admitted to regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate concerned.

11. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

12. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

09.01.2026
Mangal Singh

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