



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

(136)

CRM-M-62375-2025 (O&M)**Date of Decision: 05.03.2026**

SHILP SHARAN

.....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Rohit Rana, 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 has been invoked for grant of regular bail to the petitioner in case FIR No. 96 dated 15.05.2025 under Sections 137, 140(3), 65(1), 96 of BNS and Section 6 of POCSO Act, registered at Police Station Sadar, District Palwal.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case on the basis of the statement made by the father of the prosecutrix. It is submitted that the allegations of restraining the prosecutrix and committing wrongful acts with her have been leveled only against co-accused Shivam. There is no evidence on record that points towards the complicity of the petitioner. Even, the prosecutrix in her statement recorded under Section 183 BNSS, has not attributed any allegation of rape to the petitioner. It is further submitted that the material witnesses in the present case have already been examined, all of whom have turned hostile before the learned trial Court. Reliance in this regard is placed on Annexures



already undergone an actual custody of 09 months and 19 days and has clean antecedents.

3. *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 09 months and 19 days. The learned State counsel, on instructions from official concerned, submits that in the present case, charges were framed on 03.10.2025 and out of total 25 prosecution witnesses, 06 have 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.

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

5. 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.

6. Further, 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."

7. Reverting to the case in hand, it is borne out from the record that charges came to be framed on 03.10.2025. Yet, only 06 out of 25 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 9 months and 19 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. Moreover, it is noted that the material witnesses i.e. the prosecutrix and her parents did not support the prosecution version in their testimonies and have turned 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.***

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 05, 2026

Ritika

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