



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(118)

CRM-M-63863-2025 (O&M)

Date of Decision: 21.04.2026

RAHUL

.....Petitioner

Versus

STATE OF HARYANA AND ANR

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Kamal Chaudhary, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

None for respondent No.2.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.351 dated 11.05.2024 under Sections 365 of IPC (Section 6 of POCSO added and Sections 8 and 12 of POCSO Act deleted later on), registered at Police Station City Ballabgarh Sadar, District Faridabad.

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

"To The Officer-in-Charge, Police Post, Bus Stand, Ballabgarh. Respected Sir, I, xxxx, wife of Amarjeet, resident of 8/0, Village Motuka, Ballabgarh, Faridabad, humbly submit that I work as a laborer. On 10.05.2024, I and my younger sister xxxxx, daughter of Ompal, resident of Motuka, Ballabgarh, Faridabad, were returning from our maternal aunt's house to Ballabgarh. At approximately 12:30 PM, when we reached the Ballabgarh bus stand, my sister xxxxxx felt thirsty and went to a shop to buy a bottle of water. However, she did not return for a long time. I searched for her in the surrounding area, but she was nowhere to be found. I suspect that someone may have abducted her and is keeping her hidden. At the time of her disappearance, she was wearing a yellow suit, red pants, and black slippers. She has a tattoo of the English letter "G" on the back of her left hand and "OM" on her right hand. Her complexion is fair, face is oval-shaped, body is healthy and well-built, height is 5 feet 1 inch, and she is 16 years old. We have been searching for her on our own until now and have come to the police post today to report the matter. I request you to kindly register an FIR and help recover my sister Gayatri.



*RTI Applicant xxxxx W/o Amarjeet R/o Village Motuka, B.Garh Faridabad.
Mob.No. 9873207053”*

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the instant case, which was initially registered as a missing complaint filed by the sister of the prosecutrix. It is submitted that the petitioner, who was not named in the FIR but was nominated as an accused subsequently, had no role to play in the alleged occurrence. In fact, even prior to the registration of the present FIR, the prosecutrix had left her house and was later on got recovered from some other place, and in that regard one FIR No.172 dated 24.06.2025 was also registered thereby reflecting a pattern of conduct of the prosecution. There is no cogent evidence on record to corroborate the allegations levelled against the petitioner. The MLR of the prosecutrix does not reveal the presence of any injury marks on her person, and even as per the RFSL report dated 26.07.2024, human semen could not be detected on exhibit-2 (vaginal swabs). Moreover, even the version put forth by the prosecutrix are inconsistent. It is further submitted that the similarly placed co-accused stands exonerated by the investigating agency. He further submits that the petitioner, aged over 19 years, has already undergone an actual custody of 1 year, 9 months and 13 days. There is no other 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 1 year, 9 months and 13 days. Investigation is complete. The final report under



were framed on 11.09.2025 and out of a total of 22 prosecution witnesses, 3 have been examined. 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 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 11.09.2025. Yet, only 3 out of 22 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 1 year, 9 months and 13 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 witnesses stand 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.

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

(KIRTI SINGH)
JUDGE

April 21, 2026
Itihlesh