



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

(140)

CRM-M-63779-2025

Date of Decision: 05.03.2026

RAVI KUMAR

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Mudit Johar, Advocate for
Mr. Abhimanyu Singh, Advocate
for the petitioner.

Mr. Anmol Malik, 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. 129 dated 20.04.2025 under Sections 137(2), 61(2), 65(1), 96 of BNS and Section 4 of POCSO Act, registered at Police Station Tosham, District Bhiwani (Haryana).

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

“To, The SHO, Police Station Tosham, District Bhiwani Subject: Application regarding missing minor daughter Respected Sir, I, Rajesh Kumar, son of Dariya Singh, resident of village Sandwa, district Bhiwani, am engaged in farming. I have four daughters and one son. My youngest daughter xxxx, aged about 16 years, studies in Class 10 at Government Senior Secondary School, Sandwa. On 20.04.2025 at about 11:00 AM, my daughter xxxx left home without informing anyone. I searched for her everywhere, but she could not be found. I have a strong suspicion that Ravi, son of Mahendra, resident of village Sandwa, has lured and enticed my daughter xxxx away with the intention of marrying her. I request that my daughter xxxx be traced and appropriate legal action be taken against Ravi. Complainant: Rajesh Kumar, son of Dariya Singh Village Sandwa, District Bhiwani Mobile: 981273xxxx / 946757xxxx.”



3. 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, alleging that the petitioner had enticed her away, for the reason that, the 19 year old petitioner was well acquainted with the prosecutrix, aged over 16 years. It is submitted that the prosecutrix in her statement recorded under Section 183 of BNSS categorically stated that she had left her home on her own free will. It is further submitted that in her statement before the learned Magistrate, she stated that she was being harassed and humiliated by her family members, and therefore she had compelled the petitioner to take her along, even threatening to commit suicide if he refused. It is also argued that as per the medical examination, no injuries were found on the person of the prosecutrix, and the FSL report merely detected semen on Exhibit-4 of the petitioner. Reliance is placed on the statement of the prosecutrix, the medical report and the FSL report annexed as Annexures P-3, P-5 and P-6 respectively. It is submitted that there is no cogent evidence on record against the petitioner that could establish his guilt beyond the shadow of reasonable doubt. Learned counsel submits that the petitioner has already undergone an actual custody period of 10 months and 02 days and has clean antecedents.

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 10 months and 02 days. The learned State counsel, on instructions from official concerned, submits that in the present case, charges were framed on



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. 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.

7. In the present case, charges have been framed in relation to offence under Section 4 of the POCSO Act. In cases similar to the present one, factors which warrant consideration of the Court also include, but are not limited to the age of the prosecutrix and its difference from the age of the petitioner, so as to also determine the element of perversion; and the arguments raised, particularly with respect to the contents of the statements made by the prosecutrix.

8. Before proceeding further, a gainful reference can also 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 09.07.2025. 22 out of 28 cited prosecution witnesses have been examined. The petitioner has already remained in actual custody for a period of 10 months and 02 days. It is also not disputed that he has no criminal antecedents and is not involved in any other case.

10. 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.

11. 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 witness i.e. the prosecutrix did not support the prosecution version in her statement recorded under Section 183 of BNSS. 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.***

12. 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.

13. 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.

14. 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.

15. 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*