



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(125)

CRM-M-64204-2025 (O&M)
Date of Decision: 17.3.2026

Rohit

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Rajesh Malik, Advocate
for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

KIRTI SINGH, J. (ORAL)

CRM-10463-2026

The application is allowed as prayed for. Annexures P-4 and P-5 are taken on record.

CRM-M-64204-2025

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. 14 dated 29.2.2024 under Sections 363 and 366-A IPC, registered at Police Station Dhakoli, District SAS Nagar.

2. The facts in brief are that the complainant moved a complaint to the police stating therein that his elder brother Vinod Kumar along with his family has been residing in Himachal Pradesh, whereas the daughter of his elder brother aged about 17 years was residing with him for the last 05 months. He alleges that on 26.2.2024, he had gone out to fetch grocery and when he returned at about 12.30 P.M., he found that his niece was missing.



He tried to search for her but could not locate her. He came to know that her niece had been enticed away by the petitioner on the false pretext of marriage.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner aged 20 years, has been falsely implicated in this case by the complainant, who is the uncle of the prosecutrix. In fact, the petitioner and the prosecutrix were well known to each other. It is also submitted that the prosecutrix in her statement recorded under Section 164 Cr.P.C. (Annexure P-4) has stated that she had gone with the petitioner with her own will on account of maltreatment being caused to her by her aunt (chachi), and has not levelled any allegations against the present petitioner. Learned counsel has placed reliance on the zimni orders (Annexure P-5) to contend that despite challan having being presented on 06.6.2025, charges have not been framed till date on account of the fact that the petitioner was not produced before the learned trial Court by the jail authorities. He further submits that the petitioner has undergone an actual custody of 10 months and 15 days and there is no other criminal case registered against him.

4. *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 10 months and 15 days. The learned State counsel, on instructions from ASI Nirmal Singh, submits that after completion of investigation, challan was presented on 06.6.2025, and the charges are not framed yet. She 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 after the completion of investigation, the final report under Section 173 Cr.P.C. was presented before the learned Court concerned on 06.6.2025 and the charges are yet to be framed. 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 10 months and 15 days. It is also



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. 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



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.

14. It is a matter of concern for this Court that after the presentation of challan before the learned trial Court on 06.6.2025, the jail authorities have not produced the petitioner before the learned trial Court, due to which charges against him have not been framed till date. It has been brought to



the notice that a similar issue is being faced in multiple cases, leading to prolonged languishing of under-trials in custody.

15. A perusal of the zimni orders (Annexure P-5) passed by the learned trial Court in the instant case, reveals that on 06.1.2026, the petitioner was not produced by the jail authorities. Therefore, production warrant of the petitioner was issued for 20.1.2026. However, on 20.1.2026, 03.2.2026 and 17.2.2026, the petitioner was not produced by the jail authorities despite the fact that production warrants of the petitioner had been issued for the said dates and now the case is fixed for 04.4.2026 for production of the petitioner.

16. It is alarming that due to the lapse on the part of the jail authorities, the petitioner was not produced before the learned trial Court, as a result of which charges against the petitioner could not been framed till date, despite the fact that challan was presented wayback on 6.6.2025.

17. Accordingly, Additional Director General of Police (Prisons), Punjab is directed to look into the matter and file a detailed affidavit detailing the reasons for the above said lapse.

18. Compliance report to the above regard be filed within a month from today.

(KIRTI SINGH)
JUDGE

March 17th, 2026
Gurpreet Singh

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