



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(130)

CRM-M-67716-2025 (O&M)
Date of Decision: 24.02.2026

SUNIL

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

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

Mr. Anmol Malik, DAG, Haryana.

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.141 dated 07.05.2025 under Sections 137(2), 96 and 64 of BNS and Section 6 of POCSO Act, registered at Police Station City Mandi Dabwali, Police District Dabwali.

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

“The circumstances of the case are as was follows: On 07.05.2025, an application received at the City Police Station, Dabwali, which is as follows: "To, The SHO, City Police Station, Dabwali. Subject: Regarding the search for the girl. Sir, it is requested that I, Jagwant Singh, son of Chhotu Singh, resident of Village Dabwali, Tehsil Dabwali, District Sirsa, state that my daughter, xxxx, is 17 years and 8 months old, and has studied up to Class 10 in a government school. She is currently pursuing a computer course in Kalanwali. Yesterday, 06.05.2025, my daughter, xxxx, went to Kalanwali for her studies at about 08:00 AM, as she does every day, but she did not return home by 6:00 PM. We have searched extensively for xxxxx until now, but we have not found any trace of her. My daughter, xxxxx's, description is feet. It is as follows: Age 17 years and 8



months, wheatish complexion, round face, height 5 feet 0 inches, medium and agile build. She wearing a blue colored jeans and a blue shirt, and slippers on her humble request to you, Sir, to search for and recover my daughter, xxxx. Sd/ Jagwant Singh, Jagwant Singh S/o Chhotu Singh, Resident of Village Dabwali, 90342xxx. Date 07.05.2025.”

3. Learned counsel for the petitioner *inter alia* submits that the 21 year old petitioner has been falsely implicated in the instant case, which was initially registered as a missing complaint filed by the father of the prosecutrix. It is submitted that the prosecutrix, who at the time of the alleged incident was 17 years and 8 months of age, was in fact well known to the petitioner. It is further submitted that the prosecutrix in her statement recorded under Section 183 BNSS, as also her statement made before Child Welfare Committee, stated that in fact she had left the custody of her parents on her own wish. There was no element of pressure or coercion at the end of the petitioner. It is submitted that since there was approval-of-fact though not consent-in-law in the present case, as per the own admission of the prosecutrix, and the age difference between the parties is also minimal, a lenient view may be taken towards the petitioner. Moreover, the prosecutrix had refused to get her medical examination conducted, thus there is no evidence, medical or otherwise to substantiate the allegations levelled against the petitioner. Learned counsel further submits that the petitioner has already undergone an actual custody of 9 months and 6 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 9



months and 6 days Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The charges were framed on 11.08.2025 and out of a total of 23 prosecution witnesses, two formal witnesses 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. 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 6 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, that she has consistently not levelled any overt allegations against the petitioner herein.

8. Reverting to the case in hand, admittedly, the charges were framed on 11.08.2025 and out of total 23 prosecution witnesses, only two formal witnesses have been examined till date. The petitioner has undergone actual custody of 9 months and 6 days, and there is no other criminal case registered against him. The veracity of the allegations leveled against the



purpose shall be served by further detention of the accused-petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another”, (2018) 3 SCC 22.**

9. 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.”

10. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty

Magistrate. The petitioner shall also abide by the following 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. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

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

(KIRTI SINGH)
JUDGE

February 24, 2026
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