



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

(119)

CRM-M-67708-2025

Date of Decision: 09.04.2026

TUSHAR SAHOTA @ TANU

.....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Amit Dhawan, Advocate
for the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

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. 14 dated 15.02.2025 under Section 127(6) of BNS (subsequently added Sections 70(1), 123, 351(2), 61(2), 238 of BNS), registered at Police Station Division No.3, Police Commissionerate, District Jalandhar.

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

“Statement of Ankit Sharma son of Late Sh. Radhey Shyam Sharma, resident of E.F. 257, Mandi Road, Jalandhar. It is stated that I am resident of above mentioned address and is running a shop of sale of Pooja material under the name of Balaji Puja Bhandar on Mandi Road, Jalandhar. My marriage was solemnized with xxxx daughter of Hari Mohan in the year of 2016. One daughter namely xxxx aged about 07 years and one son aged about 2½ years were born from our wedlock. On 12.02.2025 at about 8:55 PM, when I was called by their maid namely xxxx that xxxx be sent to the house, as she has to go, but I told her that xxxx has not come to the shop, the I enquired about xxxx in my relations and with the acquaintance, but she was not found there. When I reached at the house, then upon checking the Almirah, I found that Rs. 3 lacs in cash and gold ornaments worth Rs. 12-13 Lacs were missing. I strongly suspect that xxxx alongwith his children were kidnapped by Sunny alias Buggi, Buggi's sister namely Shelly and their mother Billa alongwith one Tushar and Gautam and they might have confined my wife and my children in an illegal manner at some secret place. I



have been searching on my own till now, but I have not been able to find them. I have come to inform you and appropriate legal action may be taken. My wife and my children may be traced and may be handed over to me. Statement has been got recorded, heard and is correct. Sd/-Ankit Sharma. Sd/- Dalip Singh Asi P.S Division No.13. Commissionerate Jalandhar dated 15.02.2025.”

3. Learned counsel for the petitioner submits that the petitioner, aged 20 years, has been falsely implicated in the present case on the basis of the statement of the complainant. It is submitted that the petitioner, being merely a friend of co-accused Lucky @ Buggi, has no role in the alleged offence. Reliance is placed on photographs and instagram chats between the respondent no.2 and the co-accused Lucky @ Buggi annexed as Annexure P-7. It is submitted that the present FIR has been registered after a delay of three days. Moreover, the victim-respondent no.2 being a major, had voluntarily left the house of the complainant due to harassment and thus, no offence of kidnapping or wrongful confinement is made out. The adverse statement are also evidently made under pressure. Infact, it is contended that even the petitioner was forcibly made to sign a fabricated disclosure statement. It is further submitted that no cogent or reliable evidence has been placed on record to substantiate the allegations against the petitioner. Even, respondent No.2-victim has not supported the case of the prosecution in her testimony before the learned trial Court and has been declared hostile. Learned counsel further submits that the petitioner has already undergone an actual custody of 01 year 01 month and 18 days.

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 01



year 01 month and 18 days. The learned State counsel, on instructions from official concerned, submits that in the present case, charges were framed on 05.08.2025 and out of total 17 prosecution witnesses, only 03 have been examined till date. 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 further, 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."



charges came to be framed on 05.08.2025. Yet only 03, out of 17 cited prosecution witnesses has been examined till date. 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 01 year 01 month and 18 days.

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 witness viz the prosecutrix, during the course of her examination before the trial Court, did not support the prosecution version and has been declared 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

April 09, 2026
Ritika

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>