



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

(119)

CRM-M-68202-2025 (O&M)

Date of Decision: 20.03.2026

DILSHAD KHAN @ MUHAMMAD DILSHAD KHAN

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Ms. Kamlesh, Advocate for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

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.81 dated 20.09.2024 under Sections 74, 351(2) of BNS and Section 12 of POCSO Act, registered at Police Station Sadar Ahmedgarh, District Malerkotla.

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

“Copy of statement: Statement of xxxx D/o Dilshad Khan R/o Akbarpur Channa Police Station Sadar Ahmedgarh aged about 17 years Mobile No. 62399-xxxx, stated that I am resident of above said address and studying in 11th class at Government Senior Secondary School Akbarpur Channa. My date of Birth is 03.12.2008. My father Dilshad Khan S/o Gulam Nabi has performed his second marriage/nikah with B R/o Saharanpur U.P. and presently he is residing at village Umarpura. We are two siblings. My younger Brother named Ali aged about 16 years is residing with our father Dilshad Khan. From last 3 years me and my mother Najia are residing separately from my father Dilshad Khan and his second wife Naaj, at village Akbarpur Channa. My mother has filed a maintenance case against my father at Hon'ble Court Malerkotla and hearing was fixed on 16.09.2024. I along with my mother went to Hon'ble Court Malerkotla for hearing and there my father Dilshad Khan asked my mother Najia to come along with him to his house in Umarpura and he will pay total maintenance amount. By agreeing with him, me and my mother Najia went to Village Umarpura with him and stayed there for night. On 17.09.2024 at around 8:00 PM, my mother Najia and Naaj second wife of my father were in the kitchen and I was alone in room



then my father Dilshad Khan called me and locked the room and he laid down me on Bed along with him and started touching my Breast and did other obscene acts and upon my objection my father Dilshad threatened me to kill if I will disclose about the Incident to anybody. Due to the fear of threats, I never told to anybody about the incident and on next day I returned to my home at Akbarpur Channa. Where I disclosed about the incident of that night to my Aunt (Masi) named Sajia Parveen D/o Nainu Shah R/o Akbarpur Channa and She told my mother about the incident. To report the incidence. I voluntarily along with my mother came and made the statement to you. A legal action may Be taken against my father named Dilahad Khan S/o Gulab Nabi R/o Sabri Ka Bag, Indira Chounk, Street Number 2 Police Station Mandi Saharanpur UP, presently Umarpura Police Station Sadar Ahmedgarh. Read the statement, it is correct. Statement Sd/-xxxx, confirmed statement Sd/- Najia khan W/o Dilshad Khan R/o Akbarpur Channa Verified Sd/-Kamalpreet Kaur police Station Sadar Ahmedgarh Dated 20.09.2024”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner, who is the father of the prosecutrix, has been falsely implicated in the instant FIR on the statement made by the prosecutrix. It has further been stated that due to matrimonial discord between the petitioner and his wife, the prosecutrix and her mother had been residing separately at Village Akbarpur Chhanna for the last about 3 years whereas the petitioner was residing at Village Umarpura with his second wife. The mother of the prosecutrix had filed a case of maintenance against the petitioner before the Court at Malerkotla which was fixed for hearing on 16.09.2024. On 16.09.2024, the prosecutrix along with her mother appeared before the learned trial Court at Malerkotla where the petitioner assured the prosecutrix/victim's mother that he would keep her with him at Village Umarpura and he will pay the total amount of maintenance. On 17.09.2024, allegedly, this incident took place where the petitioner had inappropriately attempted to touch the victim/prosecutrix. It has further been stated that there are no evidence to substantiate the allegations as alleged and it is a case of false implication. It is also submitted that there are material contradictions in the version of the prosecution against the petitioner.



Learned counsel submits that the petitioner, a 42 year old, has already undergone an actual custody of 01 year, 5 months and 26 days. There is no other case against him and has clean antecedents.

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 status report and custody certificate in Court today and the same are taken on record. As per custody certificate, the petitioner has undergone an actual custody of 01 year, 05 months and 26 days. Investigation is complete. Status report by way of an affidavit of Sukhdev Singh Brar, PPS, DSP, Sub Divison Ahmadgarh, District Malerkotla has been filed wherein it is stated that the final report under Section 173 Cr.P.C. was presented before the concerned Court on 18.11.2024. Learned State counsel, on instructions from ASI Gurmeet Singh submits that the charges have been framed on 02.12.2024 and out of a total of 12 prosecution witnesses, 04 have been examined. 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 charges came to be framed on 02.12.2024. Yet, only 04 out of 12 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 01 year, 05 months and 26 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, particularly when the material witnesses stand examined. Therefore, upon taking into account all the considerations stated herein-before, 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



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. 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.

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

(KIRTI SINGH)
JUDGE

March 20, 2026
SwarnjitS

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