



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(118)

CRM-M-69874-2025 (O&M)
Date of Decision: 23.4.2026

Jinda Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Bhavyadeep Walia, Advocate
for the petitioner.

Ms. Guramrit Kaur, DAG, Punjab.

KIRTI SINGH, J. (ORAL)

CRM-50889-2025

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

CRM-M-69874-2025

1. This is the second petition under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No. 39 dated 30.5.2024 under Sections 363, 366, 366-A, 376 IPC, Section 4 of the POCSO Act, and later on added Sections 376(2)(i), 376DA IPC and Section 6 of the POCSO Act, registered at Police Station Sanaur, District Patiala. Ist bail petition was dismissed as withdrawn vide order dated 5.5.2025.

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

“It is stated that I am a resident of the above mentioned address and I am studying in 10th class in Govt. Girls School, Sanaur. My date of birth is 09.11.2008. About 2/3 months back I started talking from



my Instagram ID XXXX with Jaskaran @ Jashan on his Instagram ID Jas-karn-kharoudi. We used to talk on Instagram often. He lives in our neighborhood. On 29.05.2024 I talked to Jaskaran @Jashan on Instagram then Jashan told me that today we will meet in night outside the house and you should come. I came in his talks and said yes to him. At around 12.00 Am in the night my friend Jaskaran @ Jashan knocked the door my house. At that time I was lying in my cot with my parents in the courtyard. I got up without making noise and opened the door and I saw that two persons are standing outside our house on the motorcycle. One person was Jinda son of Jaspal of our locality and the second one was Jaskaran @ Jashan. Jinda uncle was driving the motorcycle and Jaskaran was sitting behind him and I sat in the motorcycle behind Jaskaran @Jashan. They took me to a motor in fields. Thereafter Jinda uncle dropped me and Jaskaran @ Jashan at a motor and left his motorcycle there with us and returned to his house. Thereafter, my friend Jaskaran @ Jashan asked me to remove my clothes. I asked him that we were only to meet casually and what are you talking. I refused him to do so then Jaskaran @Jashan forcibly and without my consent removed my clothes and through me in the cot lying in the motor and established physical relation with me against my consent. I experienced a lot of pain and started crying loudly. Then Jaskaran left me. Thereafter he dropped me outside my house and returned to his house. I started crying loudly when I entered my house and I disclosed everything to my father and grandmother. They took me to Rajindra Hospital, Patiala that very night for treatment where I am under treatment. Jinda son of Jaspal and Jaskaran @Jashan have enticed me and took me on motorcycle to a motor where Jaskaran @Jashan committed rape with me against my consent. Legal action be taken against them. I have given my statement to you in the presence of my father, heard it and the same is correct."

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case by the prosecutrix. It is submitted that the main accused in the present FIR is Jaskaran Singh against whom the allegations of enticing away the prosecutrix and thereafter committing rape upon her are levelled. The sole reason for the nomination of the petitioner as an accused is that he is related to the main accused. Even otherwise, the role sought to be assigned in the alleged occurrence is that he accompanied the main accused and the prosecutrix to the alleged place of occurrence, whereafter he left the spot. It is submitted that there is no evidence to corroborate the allegations levelled in the FIR, particularly



against the petitioner to whom no overt act qua sexual harassment has been attributed. In fact, DNA report has been received from the FSL concerned as per which human semen and male DNA was not detected on the relevant swabs/exhibits. He further submits that the material witnesses already stand examined. The petitioner has undergone an actual custody of 01 year, 09 months and 18 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 01 year, 09 months and 18 days. The learned State counsel, on instructions from ASI Angrej Singh, submits that in the present case, charges were framed on 21.9.2024 and out of total 25 prosecution witnesses, 06 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. 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. 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."

8. Reverting to the case in hand, it is borne out from the record that charges came to be framed on 21.9.2024. Yet, only 06 out of 25 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, 09 months and 18 days. It is also not disputed that he has no criminal antecedents and is not involved in any other case.

9. While the truthfulness or otherwise of the allegations levelled against him 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.

10. 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 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***.

11. 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.

12. 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.

13. 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.

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

(KIRTI SINGH)
JUDGE

April 23rd, 2026
Gurpreet Singh

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