



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

(137)

CRM-M-70741-2025 (O&M)

Date of Decision: 16.03.2026

SAHIL

.....Petitioner

Versus

STATE OF HARYANA AND ANR.

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Sahil Chaudhary, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') read with Section 528 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.133 dated 28.06.2025 under Sections 137, 74, 87 of BNS and Section 8 of the POCSO Act, registered at Police Station Sanoli, Panipat, Haryana.

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

"To: SHO. Police Station Sanoli, Panipat Sir, I request that 1 Pxxxx son of Axxxx R/o village Dxxxxx Distt Panipat. I have 3 daughters and 2 sons. My eldest daughter's name is Kxxxx. She is around 13 years old and studies in Government School Babail. On 27.06.2025, I and my family went to sleep after having dinner. When I woke up at 4 am on 28.06.2025, I saw that my elder daughter was not at home. I called my daughter. I searched everywhere in the neighbourhood. I inquired with all my relatives, but couldn't find her anywhere. My daughter should be searched. Appearance: Fair complexion, round face, slim build, height: 4 feet 1 inch. education: 9 years old, wearing a green suit and salwar. Slipper."



3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the instant FIR, which was lodged on the missing complaint made by the father of the prosecutrix. Learned counsel submits that the petitioner was not named in the FIR but was subsequently nominated as an accused. Placing reliance upon Annexures P-2 and P-3, it is submitted that when the prosecutrix was initially taken to record her statement under Section of 183 BNSS, she specifically stated that she was being pressurised by her parents to give an incriminating statement against the petitioner. It was therefore that, noting that the prosecutrix was not able to depose voluntarily, the recording of her statement was deferred for the next day. Subsequently, on the next date i.e. 04.07.2025, the prosecutrix categorically stated in her statement recorded under Section 183 of BNSS, that she had left her home on her own free will to stay at the house of her friend. No overt allegations were levelled by her against the petitioner therein. As such, it is submitted that there is no cogent evidence on record that points towards the complicity of the petitioner, a 23 year old man, who has already undergone an actual custody of 07 months and 28 days.

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 07 months and 28 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The charges



06 have been examined. Besides, there are two other cases registered against the petitioner, though he is on bail in both. He submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

5. As per office report, respondent No.2 was duly served notice through his father. However, none has put in appearance on his behalf.

6. Heard the rival submissions made by learned counsel for the parties.

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. 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.

9. Reverting to the case in hand, it is borne out from the record that charges came to be framed on 17.09.2025. Yet, only 06 out of 18 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 07 months and 28 days. The petitioner is also involved in two other cases but he is on bail on that cases.

10. 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.

11. 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 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**.

12. As regards the submission of learned State counsel that petitioner is involved in two more criminal cases, it has been held by the Hon'ble Supreme Court in **Maulana Mohd. Amir Rashadi Vs. State of U.P. and another, 2012 (2) SCC 382** that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other case(s). The relevant portion of the said judgment is reproduced herein-below:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

13. 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



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.

14. 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.

15. 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.

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

(KIRTI SINGH)
JUDGE

March 16, 2026
SwarnjitS

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