

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2026:PHHC:061609



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CRM-M-69717 of 2025(O&M)

Reserved on: 20.04.2026

Pronounced on:23.04.2026

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Shubam Sangra alias Shuboo

..Petitioner

Versus

U.T. of Jammu and Kashmir and another

..Respondents

CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL

Present: Mr. Padamkant Dwivedi, Advocate
Ms. Ayushi, Advocate and
Mr. Anshu Gupta, Advocate
for the petitioner.

Mr. Rahul Dev Singh, Addl. AG Jammu and Kashmir.

Mr. M.S. Basra, Advocate and
Mr. Anupinder Brar, Advocate for the complainant.**SHALINI SINGH NAGPAL, J.**

Petitioner seeks regular bail in case vide FIR No. 10 dated 12.01.2018, under Sections 363, 343, 376-D, 302, 201, 120-B Ranbir Penal Code, Police Station Hiranagar, District Kathua, Jammu and Kashmir. This is the first petition for regular bail.

On 12.01.2018 one Mohd. Yousaf son of Sahab Deen stated that his daughter 'A' aged 8 years had gone for grazing horses in the nearby forest at about 12:30 hours and was seen with the horses at about 14:00 hours. On the same day, the horses returned back to the "dera" at about 16:00 hours. When 'A' did not return, he went searching for her in the forest

area but could not find her. He suspected that some miscreants might have kidnapped his daughter. On his report, case vide FIR No. 10/2018 under Section 363 RPC was registered.

Status report filed by respondents states that Sanji Ram, maternal uncle of the petitioner, conspired with the petitioner and other co-accused to dislodge the Bakarwal Community from Rasana area. Sanji Ram provoked and induced the petitioner to take revenge from Bakarwals who had earlier beaten him and asked him to kidnap Bakarwal girl who often came to the forest for grazing her horses behind his house. Petitioner was asked to execute the plan of kidnapping, to give intoxicants to the girl and confine her in Devisthan. In pursuance of the said conspiracy on 09.01.2018, petitioner alongwith co-accused purchased 4 *manars*, out of which he consumed one and kept the other three in his pocket. On 10.01.2018, when the deceased girl was inquiring about her horses, he told her that he had seen her horses, took her to the jungle and called co-accused Mannu. When the victim tried to flee, he caught hold of her, pushed her and administered *Manars* one by one forcibly, rendering the victim unconscious. Thereafter, petitioner committed rape on her person. The girl was kept locked inside Devisthan. The next day, petitioner alongwith co-accused Deepak Khajuria @ Deepu, administered two tablets out of strip of Sedatives to the victim. On 12.01.2018, he again administered three sedative tablets to the girl while she was unconscious. It further transpired during investigation that on 13.01.2018, petitioner and co-accused Vishal Jangotra @ Shamma raped the victim in the presence of accused Mannu. Thereafter, petitioner again administered three sedative tablets to the victim, covered her with mats to hide her. Remaining two tablets were hidden by

him under heap of garbage which was later on recovered on his disclosure. In pursuance of the conspiracy, on 14.01.2018 petitioner alongwith co-accused removed the victim from Devisthan and took her to nearby culvert where again the minor victim was gang raped by Deepak Khajuria @ Deepu and by the petitioner. Thereafter, she was done to death by petitioner and Deepak Khajuria @ Deepu, who killed her by pressing his knees against her back and strangled her by applying force on both the ends of her chunni. Petitioner thereafter hit her twice on head with stone. Thereafter, the body was kept in Devisthan. Later on 17.01.2018, the dead body was recovered on the information of one Jagdish Raj son of Desu.

Learned counsel for the petitioner argued that petitioner was in custody w.e.f. 19.01.2018 i.e. for the last 8 years. Out of 309 witnesses, only 41 had been examined. Petitioner was a young boy of 26 years and considering the long period of incarceration and the pace at which the trial was moving, he deserved to be released on bail. It was further urged that there was no evidence of rape. Co-accused Vishal Jangotra was acquitted by the Court of learned Sessions Judge, Pathankot. A false story has been projected by the prosecution to rope in the petitioner, who was nephew of Sanji Ram, on account of community rivalry. No male DNA was detected from the body of the minor victim. Petitioner, therefore, deserved to be enlarged on regular bail.

Learned State counsel assisted by Mr. M.S. Basra and Mr. Anupinder Brar, Advocates have opposed the prayer for regular bail arguing that petitioner was the main accused, who played star role in the commission of crime along with other accused. During investigation, a strip containing two intoxicating tablets was recovered in pursuance of disclosure statement

of the petitioner. During investigation, statement of the Chemist was recorded from whom the petitioner purchased the medicine. Police also recorded statement of a witness who had last seen the deceased with the petitioner in the afternoon of 12.01.2018. There was, therefore, sufficient evidence collected by the police against the petitioner. One of the hair strands recovered from Devisthan matched with the DNA profile of the victim, confirming that she was kept in captivity in Devisthan. A hair strand recovered from the place of recovery of dead body matched with DNA profile of petitioner-Shubam Sangra. As per post-mortem report, hymen of the deceased was not found intact and there were lacerations on her private organs, besides blood stained discharge inside her vagina. As per medical expert, the victim was raped before being killed. Medical opinion also established that the victim was kept without food and administered sedatives. The cause of death was Asphyxia leading to cardio-pulmonary arrest. Considering the nature and gravity of offence, petitioner was not entitled to concession of bail.

Personal liberty is a cherished constitutional principle embodied in Article 21 of the Constitution of India. Right to speedy trial too has been recognized as a facet of the right to life under Article 21 of Constitution of India. However, in matters involving serious and gruesome crimes, the Courts are required to balance the rights of the victim, those of the society at large and of the accused.

In *State through CBI Versus Amaramani Tripathi*, 2005 AIR *Supreme Court 3490*, Hon'ble Supreme Court held as under:

14. It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the

offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see **Prahlad Singh Bhati v. NCT, Delhi, 2001(2) RCR (Criminal) 377 (SC) : 2001(4) SCC 280 and Gurcharan Singh v. State (Delhi Administration), AIR 1978 Supreme Court 179**). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in **Kalyan Chandra Sarkar v. Rajesh Ranjan, 2004(2) RCR (Criminal) 254 (SC) : 2004(7) SCC 528** :

"The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are :

- a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.
- b. Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.
- c. Prima facie satisfaction of the court in support of the charge. (see **Ram Govind Upadhyay v. Sudarshan Singh, 2002(2) RCR (Criminal) 250 (SC) : 2002(3) SCC 598 and Puran v. Ram Bilas, 2001(2) RCR (Criminal) 801 (SC) : 2001(6) SCC 338**."

This Court also in specific terms held that :

"the condition laid down under section 437(1)(i) is sine qua non for granting bail even under section 439 of the Code. In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."

I n Panchanan Mishra v. Digambar Mishra, 2005(1) Apex Criminal 319 : 2005(1) RCR (Criminal) 712 (SC) : 2005(3) SCC 143, this Court observed :

"The object underlying the cancellation of bail is to protect the fair trial and secure justice being done to the society by preventing the accused who is set at liberty by the bail order from tampering with the evidence in the heinous crime..... It hardly requires to be stated that once a person is released on bail in serious criminal cases where the punishment is quite stringent and deterrent, the accused in order to get away from the clutches of the same indulge in various activities like tampering with the prosecution witnesses, threatening the family members of the deceased victim and also create problems of law and order situation."

Thus, judicial discretion in matters of bail must be exercised cautiously, based upon relevant considerations. Ordinarily in cases of long detention, courts lean favorably towards the accused but there is no straight jacket formula that an accused would be automatically entitled to bail on the on the ground of prolonged incarceration, discretion has to be exercised considering the intrinsic merits of the case and gravity of charge.

The petitioner has been attributed principal role in the heinous crime of gang rape and murder of an 8 year old child. Investigation has found him involved in the gruesome murder and rape right from the stage of kidnapping the child till the child was done to death in a barbaric manner. There are reasonable grounds to believe that a *prima-facie* case is made out against him. Though his exact role would be determined on the basis of evidence, which is yet to be led during the course of trial, *prima-facie*, his involvement in the case is made out. Even though petitioner has been in custody for a fairly long period, the seriousness of allegations weigh heavily against him. Long custody, by itself, cannot entitle him to bail considering the manner in which the crime was committed, the role attributed to him and the quantum of punishment, conviction may entail. The acts alleged to have been committed by the petitioner are of a nature which shocks the collective conscience of the society and judicial conscience of the court. Prayer for regular bail is therefore, declined.

Since the trial has been considerably delayed and considering the long period of custody of petitioner, learned Trial Court is requested to expedite the trial and conclude it preferably within a period of one year from today.

All the pending miscellaneous applications, if any, stand disposed of.

(SHALINI SINGH NAGPAL)
JUDGE

23.04.2026

reema	Whether speaking/reasoned :	Yes
	Whether reportable :	No