



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

(106)

CRM-M-69851-2025 (O&M)

Date of Decision: 14.5.2026

Shyam Sunder

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Aditya Sanghi, Advocate and
Mr. Pardeep Bhardwaj, Advocate
for the petitioner.

Ms. Saumya Ahluwalia, Sr. DAG, Haryana.

Mr. G.S.Sidhu, Advocate and
Mr. Mrinal Dewan, Advocate
for the complainant.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 of BNSS, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No. 75 dated 15.4.2025 under Sections 137/96 of BNS (charges framed under Sections 137, 87, 123, 115, 351(3) of BNS, and Section 6 of the POCSO Act, 2012 and in alternative under Section 64(2)(m) of BNS), registered at Police Station Nathusarai Chopta, District Sirsa.

2. The allegations against the petitioner are that he enticed away the minor daughter of the complainant and committed rape upon her.

3. Learned counsel for the petitioner submits that the petitioner, aged about 21 years, has been falsely implicated by the complainant-the father of the prosecutrix. It is submitted that in the statement of the

prosecutrix recorded under Section 183 of BNSS, she leveled no overt



allegations of rape or sexual misconduct against the petitioner. The adverse statements made by her, wherein she has made material improvements, was due to family pressure. It is further submitted that the independent witness namely Nitin, in his statement (Annexure P-7), categorically stated that the prosecutrix had informed him that she had run away from home, thereby contradicting the allegations of enticement or use of force in the FIR. It is also argued that even the age of the prosecutrix is a disputed question of fact. Learned counsel further submits that there is no direct or cogent evidence available on record to substantiate the allegations levelled against the petitioner, and the material witnesses i.e. the complainant and the prosecutrix have been examined before the learned trial Court. The petitioner has already undergone an actual custody period of about 01 year and 02 days and has clean antecedents.

4. *Per contra*, learned State counsel as well as the learned counsel for the complainant have opposed the submissions made by the learned counsel for the petitioner. It is submitted that that the petitioner was actively involved in the commission of the offence.

5. Learned State counsel 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 and 02 days. The learned State counsel, on instructions from the investigating officer concerned, submits that in the present case, charges were framed on 21.7.2025 and out of total 16 prosecution witnesses, 08 have been examined till date. It is submitted that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

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



7. 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.

8. 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."

9. Reverting to the case in hand, it is borne out from the record that charges came to be framed on 21.7.2025. Yet, only 08 out of 16 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 and 02 days. It is also not disputed that he has no criminal antecedents and is not involved in

any other case.



10. 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.

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 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.***

12. 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.

13. 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.

14. 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.

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

(KIRTI SINGH)
JUDGE

May 14th, 2026
Gurpreet Singh

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