



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

(113)

CRA-S-3952-2025 (O&M)
Date of Decision: 08.04.2026

MUKESH

.....Appellant

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. D.S. Virk, Advocate
for the appellant.

Mr. Anmol Malik, DAG, Haryana.

None for respondent No.2.

KIRTI SINGH, J. (ORAL)

CRM-15170-2026

The instant application has been filed for placing on record the testimony of the victim/complainant i.e. respondent No.2 as Annexure A-1.

For the reasons recorded in the application, the application is allowed. Annexure A-1 is taken on record.

CRA-S-3952-2025 (main case)

1. The appellant has filed this appeal assailing the order dated 02.12.2025 passed by the learned Additional Sessions Judge, Sirsa, whereby the bail application filed under Section 483 of BNSS for grant of regular bail in case bearing FIR No.177 dated 10.09.2025 under Sections 115(2), 332(C), 74, 75(2) of BNS and Sections 3(1)(r)(s), 3(1)(s) & 3(2)(va) of SC/ST Act (lateron added Section 108 of BNS), registered at Police Station Nathu Sarai Chopta, District Sirsa, has been dismissed.

The translated version of the FIR is reproduced below:-



“Statement of xxxx daughter of Rameshwar, age 18 years, resident of Kairawali Tehsil Choupta District Sirsa stated that I am a resident of the above address and have taken admission in GNM. I was friendship with a boy named Mukesh who is a resident of Jasania village. Mukesh had given me a mobile card and a SIM in his name whose number is 816897xxxx on which I used to talk. Mukesh's number is 9350148292. I spoke to him on 9.9.25 between 9-10 AM and he asked me where are you, I wanted to meet you. I refused. Then suddenly at around 1.30 PM Mukesh came to my house and said that he wanted to kiss me. When I refused, he started kissing me forcefully and I started shouting. Hearing my shout, my uncle's son whose name is Azad came at the same time. Azad and Mukesh got into a scuffle. Mukesh threatened Azad that I have your sister's photo and what right do you Chamars have to stop me, a Jat, from coming. I will come anyway and Mukesh slapped my brother Azad, then my brother Azad picked up a stick lying nearby and hit him 5-7 times, hearing the noise people gathered around and 112 police came to the spot and took Mukesh away and my brother, out of fear of defamation and tension, drank the spray and is admitted in the hospital. My father had given an application to the police station-Choupta last night, but due to my brother Azad's health being very bad; we could not come for the proceedings. Today on 10-9-2025 I have come to proceed so that strictest legal action should be taken against Mukesh. I have written the statement, heard it and read it, everything is fine. Legal Aid Counsel Advocate Sd/ Nitika 10/9/2025 Sd/xxxx”

3. Learned counsel for the appellant *inter alia* submits that the appellant, aged 21 years, has been falsely implicated in the instant FIR on the statement of the complainant/prosecutrix, on the allegation that he kissed the prosecutrix against her will. It is submitted that the parties were well acquainted to each other and had met on 09.09.2025 in a public place at the instance of the prosecutrix, whereupon her family members assaulted the appellant. It is further submitted that the appellant sustained serious injuries in the violent assault, as is corroborated by his MLR. Learned counsel highlights material contradictions between the initial complaint lodged by the father of the prosecutrix and the subsequent FIR, contending that the allegations leveled in the present FIR are an afterthought to shield the family of the prosecutrix from legal consequences. It is submitted that there is no cogent evidence on record to establish the alleged offences against the



appellant, including the offences under the SC/ST Act. He further submits that the appellant has clean antecedents and has already undergone an actual custody of 06 months and 26 days.

4. As per the report of the registry, notice issued to respondent No.2 has been received back duly served, however, there is no appearance on behalf of respondent No.2 since the last three dates.

5. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the appellant. He states that the appellant was actively involved in the commission of the offence. He has filed custody certificate in the Court today and the same is taken on record. As per custody certificate, the appellant has undergone an actual custody of 06 months and 26 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The charges were framed on 20.11.2025 and out of a total of 20 prosecution witnesses, 03 have been examined till date. He submits that in view of the serious allegations against the appellant, he is not entitled to the concession of regular bail.

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. Reverting to the case in hand, it is borne out from the record that charges came to be framed on 20.11.2025. Yet, only 3 out of 20 cited prosecution witnesses have been examined till date. The pace of the proceedings, thus, indicates that the conclusion of trial is not imminent. The appellant has already remained in actual custody for a period of 06 months and 26 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 the appellant, 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.



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 appeal is allowed, and to ensure that the interests of justice are adequately safeguarded, the appellant 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 appellant will not tamper with the evidence during the trial.
- (ii) The appellant will not pressurize/intimidate the prosecution witness(s).
- (iii) The appellant will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (iv) The appellant 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 appellant 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.

(vi) The appellant will not make any attempts to re-associate with the prosecutrix or her family members in any manner either through a device or in-person.

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 08, 2026

Ritika

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