



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(108)

CRA-S-4028-2025 (O&M)
Date of Decision: 07.05.2026

RAKESH ALIAS RAKESH KOHLI

..... Appellant

Versus

STATE OF HARYANA AND ANOTHER

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Sanchit Punia, Advocate
for the appellant.

Ms. Saumya Ahluwalia, Sr. DAG, Haryana

Mr. Tejasvi Sheokand, Advocate
for respondent No.2.

KIRTI SINGH, J. (ORAL)

1. The appellant has filed this appeal assailing the order dated 02.12.2025, passed by the learned Additional Sessions Judge, Hisar, whereby the bail application filed under Section 483 of BNSS for grant of regular bail in case bearing FIR No.725 dated 30.08.2024 under Sections 137, 351(3), 75(2), 78, 96, 64, 61(2) and 3(5) of BNS; Sections 4, 10 and 12 of POCSO Act and Sections 3(2)(va), 3(1)(w)(i) and 3(2)(v) of SC/ST Act, registered at Police Station Hisar Sadar, District Hisar, has been dismissed.

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

“To, The SHO Sir, Police Station Sadar, Hisar. Sir, It is requested that I xxxxxx, daughter of Satish Kumar am a resident of Talwandi Rana, District Hisar. I belong to the Chamar (SC) caste. My age is 16 years. I study in the 12th class at a private S.K. School in the village itself. We are three siblings. I am the youngest. My father does farming work. A boy from my own village, Surender son of Mahendra, resident of Talwandi Rana, Gujjar caste, whom I know as a village boy. For about a month, Surender son of Mahendra, resident of Talwandi Rana, Gujjar caste, used to follow me while I was coming and going from school and stopped my way, putting pressure on me to marry him. Regarding this, when I told everything to my



family members, my family members had also complained about this to his family members. On 28.08.2024 at around 1 AM when my family members were asleep, I went out of the house for the washroom, and there Rakesh son of Shyamlal resident of Talwandi Rana, District Hisar caste Gujjar, Simiya son of Ransingh, resident of Talwandi Rana, caste Gujjar, and 2 other boys came and Rakesh caught my hand, and they forcibly dragged me further into the street where Surrender son of Mahendra resident of Talwandi Rana, caste Gujjar, and one other boy were already present. Then Surrender caught me by the arm with a wrong intention and threatened me, saying to marry him otherwise he would kill my brother. Then, out of fear, I managed to free my hand and returned to my home from there. I do not know the other boys. Today, I have told everything to my family members. A copy of my Caste Certificate and Aadhaar Card is enclosed herewith. I want appropriate legal action to be taken against all these boys based on the application I have submitted. Dated: 29.08.2024 SD/- xxxxx, xxxxxx Applicant: xxxxxx D/o Satish Kumar Resident of Talwandi Rana, District Hisar 93060xxxxx, 83072xxxxx.”

3. Learned counsel for the appellant *inter alia* submits that the appellant has been falsely implicated in the instant case on the statement of the prosecutrix. It is submitted that a bare perusal of the FIR reveals that the allegations therein have primarily been levelled against the main accused i.e. Surrender. Moreover, no allegation with respect to the commission of penetrative sexual assault had been made by the prosecutrix at the time of registration of the FIR. However, her version materially improved and these allegations surfaced subsequently, albeit against the main accused only, while simultaneously alleging the presence of the appellant outside the room where the alleged occurrence took place. It is submitted that there is no cogent evidence on record that points towards the complicity of the appellant. Even the statements of the prosecutrix, who has been examined before the learned trial Court, are riddled with material contradictions and inconsistencies. He further submits that the appellant, now aged about 24 years, has already undergone an actual custody of 1 year, 8 months and 27 days.

4. *Per contra*, learned State counsel as well as learned counsel for

the complainant have vehemently opposed the submissions made by the



learned counsel for the appellant. Learned State counsel states that the appellant was actively involved in the commission of the offence. She has filed the status report by way of affidavit of Asst. Superintendent of Police, Hisar, on behalf of the State, which is taken on record. She has also filed the custody certificate in Court today and the same is also taken on record. As per custody certificate, the appellant has undergone an actual custody of 1 year, 8 months and 27 days. She also submits that the appellant is involved in seven other cases, out of which he is acquitted in one case and is on bail in the remaining six cases. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The charges were framed on 12.12.2025 and out of a total of 27 prosecution witnesses, 2 have been examined. She submits that in view of the serious allegations against the appellant, he is not entitled to the concession of regular bail.

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

6. 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."

7. Reverting to the case in hand, it is borne out from the record that charges came to be framed on 12.12.2025. Yet, only 2 out of 27 cited prosecution witnesses have been examined. 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 1 year, 8 months and 27 days.

8. 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.

9. Presently, no material has been placed on record to suggest that the appellant 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



detention of the appellant, 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***.

10. As regards the submission of learned State counsel that appellant is facing trial in six 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 appellant cannot be rejected solely on the ground that the appellant 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.”

11. Accordingly, the present petition 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.

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.

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

(KIRTI SINGH)
JUDGE

May 07, 2026
ItiJesh

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