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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-3913-2025

Date of Decision: 08.01.2026

BALBIR SINGH

... APPELLANT

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM : HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Virender Kumar, Advocate
for the appellant.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. C. S. Bakshi, Advocate
for the complainant (through VC).

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 BNSS has been invoked for grant of regular bail to the appellant in case FIR No. 53 dated 22.01.2024 registered under Sections 376(2)(n), 376 (3), 354(A) and 506 IPC and Section 6 and 10 of of POCSO Act, and 3(2)(va), 3(1)(w)(i) of SC/ST Act at Police Station Gharaunda, District Karnal.

2. The contents of the FIR are as under:

To Police Station Gharaunda, Karnal. Sir, it is requested that I xxx daughter of Sanjeev Kumar belongs to Chamar Caste and I am resident of village Barsat, My date of birth is 01.07.2010. I Study in seventh class in Kendriya Vidyalaya Harsingpura village. For about 8-9 months continuously, one shopkeeper namely Balbir Singh who



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has grocery shop in the village. My mother used to sent me to the shop to purchase goods. That Shopkeeper used to tease me and trouble me a lot by putting his hand in my pyjama. He used to try to finger me by pulling down my pyjama due to which I used to feel very painful and if I tried to scream, he used to silence me by threatening me. He used to say that if I tell anyone, I will kill you and also defame your family. When my mother used to sent me to get some goods, the shopkeeper used to tell me to take the goods from inside and he used to give the goods to another customer and send him away and after the customer left, he used to force me and sometime press my private part from back side and some time from front side and also used to kiss me. Due to which I used to get upset and try to run away, then he used to forcibly hold my hand and did not leave me and when I used to start crying, he used to give me chocolate toffee and send me and used to say whether I will tell anyone or not, if I tell then see. Due to which I used to get scared and did not tell anything to anyone. On Saturday the counselor teacher came to the school, I told everything to the teacher, the teacher told my mother and I told my mother Reena. Today I have come to the police station Gharaunda to lodge a complaint. Strict action be taken against the shopkeeper Balbir."

Sd/- xxxx applicant.

3. Learned counsel for the appellant *inter alia* submits that the appellant has been falsely implicated in the present FIR on the statement made by the complainant/prosecutrix. It is submitted that there is a delay of several months in lodging the present FIR, wherein as well only vague and non-specific allegations have been levelled. There is no medical evidence to substantiate the allegations of rape against the appellant. As per the report by the doctor, only an attempt is at best, made out. However, there is nothing to show that the appellant was involved in the commission of attempt, let alone rape of the prosecutrix. Moreover, the offences under the SC/ST Act are also not made out against the appellant, aged over 61 years, who has already

undergone a custody period of 01 year 11 months and 16 days as an



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undertrial. The appellant is on bail in the two out of the three other cases registered against him.

4. Mr. C.S. Bakshi, Advocate appears on behalf of respondent no. 2 by filing *Vakalatnama*, which is taken on record.

5. *Per contra*, learned State counsel as well as counsel for the complainant have vehemently opposed the submissions made by the learned counsel for the appellant.

6. Learned State counsel states that the appellant was actively involved in the commission of the offence. He has filed the custody certificate in Court today. As per custody certificate, the appellant has undergone an actual custody of 01 year 11 months and 16 days. There are three other cases registered against him. Investigation is complete and charges stand framed. Out of the total 14 prosecution witnesses, 03 have been examined till date. However, he submits that in view of the serious allegations against the appellant, he is not entitled to the concession of regular bail.

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

8. Pertinently, the charges in the instant case stand framed. Out of total 14 prosecution witnesses, only 03 have been examined till date. The appellant has undergone actual custody of 01 year 11 months and 16 days. The veracity of the allegations leveled against the appellant shall be established during the course of the trial. No useful purpose shall be served by further detention of the accused-appellant. Keeping the appellant in further detention without the prospect of the trial being concluded in the near



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future, would be violative of his rights under Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another”, (2018) 3 SCC 22.**

9. As regards the submission of learned State counsel that petitioner is involved in three 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.”

10. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the appellant is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The appellant shall also abide by the following 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 her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

11. 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.

12. 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.

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

08.01.2026
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(KIRTI SINGH)
JUDGE

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