



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

(146)

**CRM-M-72255-2025 (O&M)
Date of Decision: 10.03.2026**

KRISHAN

.....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Sharndeeep Singh, Advocate and
Mr. Abhimanu, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

None for respondent No.2.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 BNSS has been invoked for grant of regular bail to the petitioner in case FIR No.17 dated 19.01.2019 under Sections 346, 343, 376 (2) (n), 506 and 34 of IPC and Section 6 of POCSO Act, 2012 registered at Police Station City Mandi Dabwali, District Sirsa.

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

“To, SHO Sir, PS City Dabwali, Sir, It is requested that I, xxxxxx, wife of Gurtej Singh Caste Babria Singh, am a resident of village Dabwali. I have two children, a boy named Maan Singh whose age is about 19 years and a girl named xxxxxx whose age is 16 years. My husband died about 3 years ago. On 17.01.19, we had dinner and slept in our house. When I woke up at around 3.00 a.m. on 18.01.19, my daughter xxxxxx was not on her bed. On my own, I tried to look here and there but couldn't find her. I also informed my relatives in this regard. We are searching for my daughter on our own till date. We could not find any trace of my daughter xxxxxx. My daughter has



left home without telling me. We do not know that my daughter xxxxxx whether someone has hidden her or she has hid herself. My daughter should be searched and recovered. My girl's appearance is like this: Brown complexion, round face, yellow suit, slippers on feet, height 5.1 inches and age 16 years SD R.T.I xxxxxx Applicant xxxxx Wife Gurtej Singh Caste Babria Singh Resident Village Dabwali Mob. No. 86858-xxxxx Dated 19.01.19.”

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the instant FIR, which was initially registered as a missing complaint filed by the mother of the prosecutrix. The material witnesses stand examined before the learned trial Court, who have not supported the case of the prosecution. Reliance in this regard is placed on Annexures P-5 and P-6. The prosecutrix was medico-legally examined, and as per which there was no injury mark present on her person. As such, there is no evidence, medical or otherwise, on record that points towards the complicity of the petitioner. It is further submitted that though the petitioner was declared as a proclaimed person, but the said order was ordered to be stayed by this Hon'ble Court, whereafter the petitioner was subsequently arrested. He further submits that the petitioner has already undergone an actual custody of 1 year and 23 days. There is no other case registered against him.

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He states that the petitioner was actively involved in the commission of the offence. He 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 1 year and 23 days. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court. The charges were framed on 09.04.2025 and out of a total of 23 prosecution witnesses, 5 have



been examined. He submits that in view of the serious allegations against the petitioner, 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 09.04.2025. Yet, only 5 out of 23 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 1 year and 23 days. It is also not disputed that he has no criminal antecedents and is not involved in any other case.

8. While the truthfulness or otherwise of the allegations levelled against the petitioner, 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 petitioner poses a flight risk or that his release would impede the fair conduct of the trial. Moreover, it is noted that the material witnesses during the course of their examination before the trial Court, did not support the prosecution version and have been declared hostile. While it is settled that the probative value of such testimony is a matter for appreciation at the stage of final adjudication of the case, yet, even while refraining from entering into any conclusive evaluation thereof, this factum cannot be completely overlooked. 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***.

10. 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.

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. 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

March 10, 2026
Itihlesh

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