



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

204

CRM-M- 73836 of 2025 (O&M)
Date of Decision: 22.01.2026

Mahesh @ Mykal

.....Petitioner

Versus

State of Haryana and another

.....Respondents

Reserved on: 14.01.2026
Pronounced on: 22.01.2026
Uploaded on: 23.01.2026

Whether full judgment is pronounced
or
-operative part thereof: Full

CORAM: HON'BLE MS. JUSTICE NEERJA K. KALSON

Present:- Mr. Parveen Kaushik, Advocate
for the petitioner.

Ms. Vasundhara Dalal Anand, DAG, Haryana.

NEERJA K. KALSON, J.

1. The present Petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, (hereinafter referred to as "BNSS") seeking regular bail on behalf of the petitioner in connection with First Information Report (hereinafter referred to as "FIR") No.347, dated 17.12.2024, registered at Police Station City Jhajjar, District Jhajjar (Annexure P-1), for offences punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012, (hereinafter "POCSO Act") and under Sections 137, 64(2) (M), 65 (1), 87 of the Bharatiya Nyaya



Sanhita, 2023 (hereinafter referred to as “BNS”).

2. The genesis of the prosecution lies in a police complaint dated 17.12.2024 lodged by the mother of a 13 year old girl (hereinafter referred to as “victim”), alleging that her daughter had gone missing from their home. The complainant expressed a firm suspicion that the petitioner had enticed the victim away, a suspicion allegedly fortified by the petitioner's simultaneous absence from his own residence. Consequent to the complaint, the aforesaid FIR was registered, and an investigation was commenced. The petitioner was arrested on 25.12.2024 and has remained in judicial custody since that date.

3. Upon the culmination of the investigation, a charge sheet was filed on 04.04.2025, and the case was committed to the learned JMJC, Jhajjar (hereinafter referred to as “trial court”). During the trial, the victim was examined as PW-1, wherein she fully corroborated the prosecution's case as narrated by her mother. She deposed in detail that the petitioner had taken her to Delhi and various locations in Uttar Pradesh, where they resided in rented accommodations. She further stated that she was subjected to repeated sexual assaults against her will and without her consent.

4. The petitioner's first bail application was considered and dismissed by the learned Additional Session Judge, Jhajjar on 06.10.2025 vide BA No. BA/1411-2025 (Annexure P-6).

5. The trial is currently in progress. The prosecution has cited a total of 23 witnesses. As on date, five witnesses have been examined, including the complainant-mother and the victim, both of whose testimonies



for recording evidence is fixed for 29.01.2026.

6. Learned counsel for the petitioner has advanced a multi-pronged argument seeking grant of bail. The primary contentions are as under :-

- (i) That the petitioner has been incarcerated for over a year, and the trial is proceeding at a slow pace, with only five out of the 23 witnesses having been examined. So far, it is argued that such prolonged detention infringes upon the petitioner's right to liberty and the presumption of innocence.
- (ii) Emphasis is placed on the victim's initial statement recorded under Section 183 of the BNSS upon her recovery. In that statement, she allegedly admitted to having been in prior telephonic contact with the petitioner, his visits to her home, and having left her home “*by her own sweet will*” Crucially, she made no allegation of force or coercion in that statement.
- (iii) Ld. counsel highlights that the medical examination of the victim revealed no external injuries. Furthermore, the FSL report confirmed the presence of human semen only on the victim's lower garment and a bedsheet, but not on other exhibits, rendering the forensic evidence inconclusive.
- (iv) Relying on the celebrated judgment of the Hon'ble Supreme Court in *State of Kerala Vs. Raneef, (2011) 1 SCC 784*, it is asserted that “bail is the rule and jail is the exception”, a principle that ought to be applied in the present case.



7. Per contra, the learned State counsel has vehemently opposed the bail application. She contends as follows:

- (i) That the offences are of a grave and heinous nature, having been committed against a child of tender age of 13 years.
- (ii) It is submitted that the victim's categorical and unambiguous testimony recorded during the trial, detailing the repeated assaults, establishes a strong *prima facie* case against the petitioner.
- (iii) Apprehensions have also been raised that if released on bail, the petitioner, may abscond or attempt to influence the remaining 18 prosecution witnesses.

8. This Court has given its anxious consideration upon the rival submissions of both parties and has meticulously perused the record.

9. The principles governing grant of bail are well settled. The petitioner's contentions, while eloquently presented, must be weighed against the stringent and protective legislative framework of the POCSO Act, which places the welfare and protection of the child at the highest pedestal. The arguments are addressed seriatim.

10. The petitioner has been in custody since 25.12.2024, i.e. for a period of approximately 13 months. While the right to a speedy trial is a cornerstone of our criminal jurisprudence, the Hon'ble Supreme Court has repeatedly held, particularly in grave offences like those under the POCSO Act, that the period of incarceration alone cannot be the sole determinative

factor for granting bail. In ***Rajesh Ranjan @ Pappu Yadav v. CBI, 2007(1)***



SCC 70, the Hon'ble Supreme Court held that although personal liberty is important, mere delay in trial or length of incarceration does not by itself confer an indefeasible right to bail, especially in cases involving serious offences. The statutory mandate regarding completion of trial within a particular period as provided under the POCSO Act, is for the benefit of the victim and not the accused, and if the timelines set by the statute for completion of trial are not met, the accused would not automatically become entitled to bail. If the contrary is allowed, every attempt would be made to delay proceedings and release on grounds of delay would be sought in every such case - such is not the legislative intent of the POCSO Act. In the instant case, the trial is proceeding; the two most crucial witnesses i.e. the victim and her mother have already been examined. The next date of hearing before the trial court is 29.01.2026. Moreover, there is no material on record to suggest any deliberate delay by the prosecution. Granting bail at this critical juncture, when 18 witnesses are yet to be examined, would pose a tangible risk of witness tampering and intimidation.

11. The Respondents have placed significant reliance upon the victim's initial statement, suggesting her departure (from home) was voluntary. This argument, however, overlooks the fundamental legal presumption embedded within the POCSO Act. Section 2(1)(b) of the Act defines a “child” as any person below the age of 18 years, and the law presumes such a child to be incapable of giving valid consent to any sexual act. Consequently, the concepts of “willingness” or “voluntary departure” are legally irrelevant in the face of statutory proscription. Moreover, it is a



settled principle of law that the substantive evidence of a witness is the testimony given on oath before the trial court. The victim's deposition as PW-1, wherein she has detailed the enticement and subsequent sexual assaults, overrides any perceived inconsistencies in her earlier statements. As held in *Ram Vijay Singh v. State of Uttar Pradesh, 2021 SCC Online SC 142*; *P Dineshan & Ors. v. State of Kerala, 2025 SCC Online SC 28*; the court is required to assess the overall credibility of a witness, and minor contradictions are often inconsequential. The victim's sworn testimony fortifies the prosecution's case at this *prima facie* stage.

12. The absence of external injuries on the victim's body is not, by itself, a ground to disbelieve the allegation of penetrative sexual assault. Such crimes, especially when repeated over time, do not necessarily leave visible marks. Similarly, the FSL report, though not detecting semen on all exhibits, confirms its presence on the victim's clothing and the bedsheet, which corroborates the allegation of sexual activity. As observed in *State of Punjab v. Gurmit Singh, (1996) 2 SCC 384*; *State of Himachal Pradesh v. Manga Singh, (2019) 16 SCC 759*; *Lok Mal alias Loku v. State of Uttar Pradesh, (2025) 4 SCC 470*; *Deepak Kumar v. State of Chhattisgarh, 2025 INSC 929*; deficiencies in medical evidence do not demolish a *prima facie* case built on the bedrock of direct testimony, particularly at the stage of consideration of bail. The unimpeachable testimony of the victim alone is sufficient to deny bail in cases involving heinous crimes. Reliance is placed on *Satyender Kumar Antil v. CBI, (2022) 10 SCC 51*; *State of Kerala v. Mahesh, AIR 2021 SC 2071*.



13. The principle laid down in *Raneef's* case (supra) is an eternal sentinel of personal liberty under Article 21 of the Constitution of India. However, this principle is not absolute and must be harmonized with the compelling state interest of protecting children from sexual exploitation. The POCSO Act, with its stringent provisions and reverse onus clauses, creates a special category of offences where the grant of bail requires exceptional circumspection. The ratio in *Kapil Tripathi* case (supra) correctly equates the gravity and the considerations for bail in POCSO cases with those under special statutes such as NDPS Act. The petitioner's demonstrated conduct of absconding with the minor across state boundaries heightens the flight risk and the potential to subvert the process of trial.

14. In light of the foregoing analysis, this Court finds that a strong *prima facie* case is established against the petitioner, resting on the twin pillars of the consistent and corroborative testimonies of the victim (PW-1) and the complainant-mother. The arguments raised by the petitioner, though articulate, fail to dislodge the *prima facie* case or mitigate the gravity of the alleged offences under the POCSO Act. The legislative intent of the POCSO Act and the statutory mandate to protect child victims outweighs the petitioner's plea for liberty at this stage.

15. The judiciary bears a solemn duty to act as a guardian for those who are incapable to protect themselves. When the innocence of a child is violated, the law must act not merely as a punitive instrument, but as an unwavering shield. As it is often said, "*The soul of a society is judged by how it treats its children, for they are the living messages we send to a time*

2026.PHHC:009713



we will not see.” In this context, a lenient approach is wholly unwarranted.

16. Consequently, this Court finds no merit in the present bail application. The petition is, accordingly, dismissed.

17. The learned trial court is, however, directed to expedite the trial and make every endeavour to conclude the same within a period of six months from the date of receipt of copy this order. The trial Court shall ensure that at least four prosecution witnesses are examined on each effective date of hearing.

18. It is made clear that observations in this order are limited to the aspect of grant of bail and nothing hereinabove shall be construed as an expression of opinion on the merits of the case.

19. Pending application(s), if any, shall also stand disposed of.

January 22, 2026
Satyawar

(NEERJA K. KALSON)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>