



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

(151)**CRM-M-73643-2025****Date of Decision: 12.03.2026**

VIKAS BAWA @ BALLU @ MAAN

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Vaibhav Narang, Advocate
for the petitioner.

Mr. Yadwinder Singh, AAG, Punjab.

KIRTI SINGH, J. (ORAL)

1. This is the second petition under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No. 56 dated 01.08.2024 under Sections 65(1), 351(3) of BNS, 2023 and Section 6 of POCSO Act (Amended), 2012, 2019, registered at Police Station Mohakampura, District Police Commionerate, Amritsar.

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

“Statement of xxxx daughter of Rajesh Sharma resident of house no. 115, street no. 7, Sunder Nagar near Shivala Mandir, Amritsar aged around 15 years 9 months, mobile 836065xxxx, 905639xxx. Made a statement I am resident of above said address and I study in 10th Class at Government Girls Senior Secondary School Shivala, Maha Singh Gate, Amritsar, my date of birth is 13.11.2008. My parents are divorced due to which I stay with my father Rajesh Sharma almost 10 months ago I met Vikas Bawa alias Ballu son of Vipan Bawa resident of Sunder Nagar; we started talking with each other over phone. Vikas usually tell me to meet me in the Hotel. In the month of February 2024 I had gone to market from house then Vikas had told me to meet at Hotel Mahal Inn, however, I denied. Then Vikas started telling me that he would tell about our friendship to my family members then on asking of Vikas I started meeting him in the hotels where Vikas use to make physical relations with me, till now Vikas had met me 6/7 times in the hotel, last month on 06.07.2024 Vikas has taken me to Hotel Mahal Inn in room no. 103 where Vikas has developed physical relations with me and now on 23.07.2024 in room no. 305 Hotel Mahal Inn where Vikas had developed physical relations with



me, when I denied Vikas use to threaten me that he would tell about our friendship to my family. Now I have come to know that Vikas is married and he has one child. That thereafter, I gathered courage and told my paternal aunt (Bua) xxxx alias Bintu regarding the entire incident then my Bua Bintu had brought me to you. Legal action may be taken against Vikas. I have made the statement I have heard it, it is correct. Deponent sd/- xxxx.”

3. Learned counsel for the petitioner submits that the petitioner, aged 29 years, has been falsely implicated in the present case on the statement made by the prosecutrix. It is submitted that both the petitioner and the complainant side reside in the same locality. The prosecutrix was thus well aware that the petitioner is a married man and father of a child. Yet, she continued communicating and interacting with the petitioner, however, be that as it may, the same does not prove the establishment of any physical relations between the two. Infact, the present FIR was lodged by the prosecutrix under duress from her family, after the brother of the complainant learned about the interaction of the petitioner with the prosecutrix. It is further submitted that the medical examination does not support the allegation of physical relations. Reliance is placed on the testimony of the doctor examined as PW-11, who specifically deposed that in her opinion formed after the physical examination of the prosecutrix and the DNA analysis report, there were no signs suggestive of penetration of the genitals of the prosecutrix. Moreover, it is an established fact that no human semen was obtained from any sample. As such, other than the mere uncorroborated averments, there is no cogent or credible evidence on record to substantiate the allegations levelled against the petitioner. It is submitted that the material witnesses have already been examined in the present FIR. Learned counsel submits that the petitioner has already undergone an actual custody of 01 year 07 months and 08 days and has clean antecedents.



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 01 year 07 months and 08 days. The learned State counsel, on instructions from official concerned, submits that in the present case, charges were framed on 27.09.2024 and out of total 15 prosecution witnesses, 09 have been examined till date. 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 27.09.2024. 09 out of 15 cited prosecution witnesses have been examined. The petitioner has already remained in actual custody for a period of 01 year 07 months and 08 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, 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.***

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.

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

(KIRTI SINGH)
JUDGE

March 12, 2026
Ritika

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