

2026:PHHC:091687



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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2994-2026
Date of Decision:07.07.2026

[REDACTED]

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Yaman, Advocate (Legal Aid Counsel)
for the petitioner.

Mr. Gautam Thapar, Sr. DAG, Punjab.

AARADHNA SAWHNEY, J. (ORAL)

1. This petition for grant of bail under Section 483 BNSS has been filed by petitioner, an accused in case bearing FIR No [REDACTED] dated 09.12.2024 registered against him, u/s 137(2), 96, 70(2), 317(2) BNS and Section 6 of the POCSO Act, 2012 at Police Station [REDACTED] District [REDACTED].

2. Relevant facts necessary for disposal of this petition are being taken from para 3 of the status report dated 16.04.2026 filed by way of affidavit of [REDACTED]

[REDACTED] The same reproduced as under:-

“Criminal proceedings in the present case were initiated on a complaint dated 09.12.2024 moved by complainant ‘XX’ stating therein that her minor daughter ‘K’ aged 16 years (DOB 14.06.2008) has completed study upto 10+2 and then started domestic work at home. On 07.12.2024, the whole family went to sleep after taking meal and next morning on 08.12.2024, her minor daughter ‘K’ was not present on her bed. He along with his wife had started searching for their daughter and came to know

that on the intervening night of 07/08.12.2024, accused [REDACTED] along with present petitioner [REDACTED] had enticed away her daughter after alluring her for marriage.

On basis of this complaint, FIR No.198 dated 09.12.2024 u/s 137(2), 96, 70(2), 317(2) BNS and Section 6 of the POCSO Act, 2012 was registered at Police Station [REDACTED] District [REDACTED]”

During the course of investigation, the missing girl, namely ‘K’ was recovered on 09.12.2024. She was got medico-legal examined from the Civil Hospital, [REDACTED]. The Medico-Legal Report (MLR), along with vaginal swabs and slides, bloods samples handed over by the examining Doctor, were taken into possession by the Investigating Officer for sending them to FSL.

On 10.12.2024, the victim girl ‘K’ was produced before the learned Magistrate, who recorded her statement u/s 183 BNSS (erstwhile Section 164 Cr.P.C.), wherein she disclosed that she was raped by both the accused including petitioner on different occasions without her consent.

On 09.12.2024, petitioner was arrested, who during the course of interrogation disclosed that at the time of commission of offence in the present case, a Swift car bearing No. [REDACTED] was initially hired by them and on the way, they had snatched the same from its owner at [REDACTED]. Regarding this incident, Police was already informed by the owner of car namely [REDACTED] and lodged FIR No [REDACTED] against unknown accused for snatching his car. The car was taken into possession vide seizure memo.

On culmination of the investigation, challan complete in all respect, was filed against the petitioner u/s 137(2), 96, 70(2), 317(2) BNS and

Section 6 of the POCSO Act, 2012.

Admittedly, victim girl 'K' has been examined as PW-1, who did not support the case of the prosecution, resiled from her initial statement recorded u/s 183 BNSS (erstwhile Section 164 Cr.PC) and deposed that petitioner present in the Court (through video conferencing) did not commit any wrong with her.

3. Petitioner-accused, who was arrested on 09.12.2024, moved an application for grant of bail before the learned Sessions Judge, [REDACTED]. The same came to be dismissed on 19.06.2025. Aggrieved of the which, present petition has been filed.

4. Learned counsel for the petitioner contends that petitioner, a young boy, aged about 35 years with clean past antecedents, has been falsely implicated in the present case due to some misunderstanding. During the proceedings of trial, victim and her father were examined as PW-1 and PW-2, respectively, who did not support the case of prosecution. On the request of learned Addl. Public Prosecutor, she was declared 'Hostile' and was subjected to rigorous cross-examination but nothing fruitful to support the case of the prosecution could be elicited therefrom.

Learned counsel further submits that similarly situated co-accused [REDACTED] has already been granted concession of bail by the coordinate Bench of this Court vide order dated 22.01.2026 passed in [REDACTED] (Annexure P-6). It has thus been prayed that on grounds of parity, similar treatment be meted out to present petitioner.

So far as other connected FIR No. [REDACTED] dated 08.12.2024 registered against the present petitioner along with co-accused, [REDACTED] is concerned, admittedly they

stand acquitted by learned Judicial Magistrate Ist Class, [REDACTED] vide judgment dated 28.11.2025.

Learned counsel next contends that in the light of submissions advanced hereinabove, lenient view deserves to be taken in favour of the petitioner, who has been in custody since 09.12.2024, as the prospect of trial being concluded in the near future seems to be quite remote, as out of total 28 prosecution witnesses, 25 still remain to be examined. Moreover, star-witnesses of prosecution story i.e. victim and her father having been already examined (who did not support the case of the prosecution), there is no apprehension that if allowed, the relief sought for, petitioner would overawe complainant and other related witnesses. When viewed in the factual scenario of the case in hand, further incarceration of petitioner would not serve any useful purpose as the same would be violative of his fundamental rights guaranteed under Article 21 of the Constitution of India. Prayer for allowing the petition has been made.

5. *Per contra*, while opposing the request for grant of bail, learned State counsel submitted that petitioner, who violated the person of the victim 'K', who is about 16 years, is not entitled to the relief as sought for, if extended the concession of bail, there is every likelihood of him fleeing from the process of justice by not appearing in the Court. In view of the seriousness and gravity of offence, no case for grant of bail is made out. Dismissal of the petition has been prayed for.

6. I have heard the learned counsel for the parties and with their able assistance, perused the record available on record.

7. It is settled that grant or refusal of bail is the discretion of the Court. Factors to be kept in mind while granting the concession of bail have been discussed by the Hon'ble Supreme Court in several cases. The essence

being that while exercising powers under Section 439 Cr.P.C. (Pari materia to Section 483 of BNSS), the Court has to take into consideration various parameters including the nature of the charge, evidence, seriousness and gravity of offence, punishments to be awarded to a person, if he is convicted, his past antecedents etc. Thus, there can be no straight jacket formula for exercising the discretion and each case has to be examined on its peculiar facts.

The Hon'ble Apex Court in *Sanjay Chandra versus Central Bureau of Investigation (2012)*¹ *Supreme Court Cases 49*; held as under:-

"14) 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 can be 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.

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. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive

content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson."

Hon'ble Supreme Court in ***Dataram Singh vs. State of Uttar Pradesh & Anr., 2018(2) R.C.R. (Criminal) 131***, elaborated upon the factors to be kept in mind while deciding bail and reiterated that a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. Hon'ble Apex Court further held that while considering prayer for grant of bail, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Hon'ble Apex Court further held that if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimized, it would be a factor that a judge would need to consider in an appropriate case.

8. In view of the settled proposition of law, without delving deep into the merits of the case, lest it may prejudice the trial, considering the fact that star-witnesses of the prosecution story i.e. victim and her father i.e. complainant have already been examined (who did not support the case of prosecution) as also the fact that co-accused [REDACTED], who is on similar footing as the present petitioner, has been granted the concession of bail, this Court is of the opinion that further detention of the petitioner (who has been in custody since 09.12.2024), would not serve any useful purpose, as the same, without the

prospect of trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial.

Resultantly, petitioner is granted the concession of bail subject to his furnishing bail/surety to the satisfaction of the learned Duty Magistrate/trial Court concerned. The petitioner shall abide by the following conditions:-

- (i) The petitioner shall not leave the country without prior permission of the trial Court and shall deposit the passport in the trial Court.*
- (ii) The petitioner will not tamper with the evidence during the trial.*
- (iii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
- (iv) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
- (v) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (vi) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.*
- (vii) The petitioner shall not in any manner misuse his liberty.*
- (viii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.*
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.*

Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

07.07.2026
Parveen kumar

(AARADHNA SAWHNEY)
JUDGE

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