



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRA-S-1108-2026 (O&M)
Date of Decision: 11.05.2026

Kirat Singh

...Appellant.

v.

State of Haryana and others

...Respondents.

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY.

Present: Mr. Aditya Sanghi, Advocate for the appellant.

Mr. Birender Bikram Abbrey, Addl. AG, Haryana.

Mr. Saurabh Sharma, Advocate for respondents No.2 & 3.

AARADHNA SAWHNEY, J. (Oral)

1. Appellant, an accused in case FIR No. 95 dated 10.09.2025, registered against him under Sections 137, 96, 64(2)(m), 65(1), 308(2), 308(7), 61(2)(a) of BNS, Sections 6 and 17 of POCSO Act and Section 3(2)(v) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (in short "the SC/ST Act"), at Police Station Women, Sirsa, District Sirsa, has filed the present appeal for grant of bail.

2. Relevant facts necessary for disposal of present appeal are being taken from para 2 of the status report dated 30.4.2026 filed by way of affidavit of Raj Singh, HPS, Deputy Superintendent of Police, Law and Order, District Sirsa. The same are reproduced as under:-



"2.Stated that I am resident of the abovesaid address and stay at home and am learning parlour work. My father Rajender Kumar had died about 12 years ago. My mother does daily wage labour and we are three sisters and one brother and I am the youngest. About one month ago, I met Pooja wife of Narender, resident of Gali No.4, Mela Ground, Sirsa, Satnam Chowk, at Sirsa, when I had come here alone to purchase parlour (material/articles). At that time, Pooja took my mobile number and we started talking over phone. Her moibile number is 98121-90110. About one week ago, she had called me to Sirsa. I stayed with her for one day. She said that she would get me parlour work, but after meeting in Sirsa, she said that she had called me just to meet. The day before yesterday, on 08.09.2025, Pooja had come to Fatehabad in a car along with a boy who disclosed his name as Kirat Singh (A), son of Nirmal Singh, resident of Jhorarnali, Sirsa. She had called me before coming and said that, "Today you come with me; I shall get you employed in a parlour at Sirsa itself." Thereafter, she called me to Fatehabad Bus Stand, and from there took me to Sirsa to her house. Kirat (A) was also with us. Pooja said to me that, "I shall get you employed in a parlour and shall also give you ten thousand rupees; you go with Kirat for one night." Then she sent me in the car with Kirat. Thereafter, Kirat took me to some hotel near the bridge on Hisar Road, Sirsa, the name of which I do not remember and there he made physical relations with me twice. Thereafter, on dated 09.09.2025 Kirat



left me at the house of Pooja and went away. Neither did he give any money to me nor to Pooja for establishing relations with me. Thereafter, at night, Pooja left me at the Women Police Station, Sirsa and while leaving she said that after going to the Police Station you should give a statement that you do not want to get a rape case registered; only call Kirat once and when he comes, then by threatening him with a rape case, we shall take money, out of which some money I shall give to you. Yesterday I had come to the Police Station alone and was very frightened. I had told you to call my mother, and only then I would say something in her presence. You had asked my mother to come this morning, because last night you had left me at One Stop Centre, Sirsa. Today, on 10.09.2025, after the arrival of my mother Darshana, I have got my above statement written and read it in her presence, without any fear or pressure, which is correct. Legal action be taken against Pooja and Kirat and justice be done to me. Pooja and Kirat have done very wrong with me and they be punished.”

During investigation, on 10.09.2025, victim/minor girl ‘S’ was produced before the Child Welfare Committee, Sirsa for counseling. On the same day, she was produced before the learned JMIC, Sirsa for getting her statement recorded u/s 183 BNSS. She was also got medico legally examined from a Doctor in Civil Hospital, Sirsa. Detailed report was prepared, after which a copy thereof along with two vaginal swabs, two vaginal slide and pubic hair of victim/minor girl ‘S’ were handed over to the IO for getting it chemically examined.



On the following day, i.e. on 11.9.2025, co-accused Pooja and co-accused Manoj Kumar were arrested and joined in the investigation. During the course of which, they confessed their involvement in the commission of offence along with present appellant, i.e., Kirat Singh and their other accused.

On 12.9.2025, present appellant was arrested, who also confessed to his guilt. He was got medico legally examined after which, copy of the MLR, sealed sample, i.e. underwear, pubic hairs, swab from glens and plain blood of appellant were handed over to I.O. for further chemical examination. At the instance of the appellant, a car bearing registration No.HR-24AJ-2306 (make Aura) was recovered, which was also taken into possession. He also demarcated the hotel where he violated the person of the victim. Statements of the witnesses were recorded at various stages of investigation. Copy of the Birth certificate and copy of admission register of Ist Class and admission cancellation register of the victim/minor girl 'S' were obtained from Government Model Sanskriti Primary School, Swami Nagar, Fatehabad, as per which, the victim was born on 09.06.2010.

On 18.9.2025, co-accused Sandeep Kumar was arrested, who also admitted to his involvement in the commission of offence and further got recovered Rs.1000/- which had been given by the present appellant while getting the room on rent from him (Sandeep Kumar). Hotel CCTV footage, hotel register and BSA certificate etc. were also collected showing that appellant Kirat Singh along with victim had entered and exited the hotel room, which were also taken into possession. Sealed samples were sent to RFSL, Hisar for further chemical analysis. Since the victim belonged to



Scheduled Caste/Scheduled Tribe community, Section 3(2)(v) of SC/ST Act was added.

On culmination of investigation, challan complete in all respects was filed in the Court.

3. Appellant-accused filed application for grant of bail before the learned Additional Sessions Judge, Fast Track Special Court, Sirsa. The same was dismissed vide order dated 20.3.2026. Aggrieved of which, the present petition has been filed.

4. Learned counsel for the appellant contends that, appellant with clean past antecedents, has been falsely implicated in the present case. Falsity of the case set up against him by the prosecution is apparent from the fact that the star witness of the prosecution story while appearing in the witness box as PW1 deposed that she was born on 9.6.2005 as also that the present appellant did not violate her person at any place. Despite the fact that she was declared *Hostile* on the request of learned PP and was subjected to rigorous cross-examination, but nothing fruitful to the support of the case of prosecution could be elucidated therefrom.

Continuing further, learned counsel contends that on the similar lines is the statement of her mother, who appeared as PW2. Attention of the Court has also been drawn to the copy of the RFSL Report, wherein it was opined as under:-

“Human Semen was detected on exhibit-2 (Underwear). However, semen could not be detected on rest of the exhibits mentioned above including vaginal swabs etc.”

Learned counsel contends that when the statement of prosecutrix u/s 164 Cr.P.C., wherein she admitted having accompanied



appellant for one night in lieu of payment of Rs.10,000/- is appreciated in the light of the submissions advanced hereinabove, the inference that can be drawn is that the appellant did not compel the victim to accompany him. She went along with him as she was promised Rs.10,000/- for spending one night with him. That apart, there is nothing to indicate that the appellant violated the person of the victim only taking into consideration the Caste factor.

The next leg of submission raised by learned counsel is that in the wake of the star witness of the prosecution story having been already examined, who as noticed above, did not support the stand of the prosecution and even the scientific evidence does not corroborate the first version of the victim, lenient view deserves to be taken in favour of the appellant, who was arrested on 12.9.2025, for his further incarceration would not serve any useful purpose as the same would not only be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial but would also be against the principle of "*Bail is a general rule and incarceration is an exception*". Prayer for allowing the appeal has been made.

4. *Per contra*, while opposing the request for grant of bail, learned State counsel contends that the statement of the minor girl 'S' recorded by the learned Magistrate u/s 183 of BNSS coupled with the CCTV footage of the hotel obtained by the IO clearly proves the complicity of the appellant, who can be seen along with the victim entering the said hotel. Learned State counsel further contends that the victim being minor (less than 18 years of age), her consent is totally immaterial. Further, in view of the seriousness and



gravity of allegations levelled, no case for grant of concession of bail to appellant is made out. Dismissal of appeal has been prayed for.

No meaningful arguments were advanced by the learned counsel appearing for the complainant-respondents No.2 and 3.

5. Heard learned counsel for the parties and have perused the documents on record.

6. 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.

Hon'ble Supreme Court in *Sanjay Chandra v. CBI, (2012) 1 SCC 40*, had held as under:-

“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 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.

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 un-convicted 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.*

23. *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."*

7. Keeping in view the referred law as mentioned hereinabove as also in view of the submissions advanced by learned counsel for the appellant, but without adverting to the merits of the case, lest it may prejudice the trial, this Court is of the opinion that in the factual scenario of



the case in hand, appellant who has been in custody since 12.9.2025, deserves the concession of bail, for the likelihood of completion of trial in the near future is quite remote, thus, his (A) further incarceration would not only be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial but would also be against the principle of “*Bail is a general rule and incarceration is an exception*” as held by Hon’ble Supreme Court in ***Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.***

8. Resultantly, appellant is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The appellant shall 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 witnesses.*
- (iii) *The appellant shall surrender his passport before the learned trial Court and shall not leave the country without prior permission of the trial Court.*
- (iv) *The appellant shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
- (v) *The appellant 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.*
- (vi) *The appellant shall not in any manner misuse his liberty.*
- (vii) *The appellant 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 appellant 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.

(viii) The appellant will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.

(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the appellant.

9. Accordingly, the present appeal 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 appellant by this order.

10. 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.

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

(AARADHNA SAWHNEY)
JUDGE

11.05.2026
gbs

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No