



CRM-M-18554-2026 (O&M)

-1-

2026:PHHC:061899



2026:PHHC:061899

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

(122+210)

CRM-M-18554-2026 (O&M)

Date of Decision: 23.04.2026

PAVANDEEP SINGH ALIAS PAWANDEEP SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Bhavesh Aggarwal, Advocate for the petitioner.

Mr. Yadwinder Singh, AAG, Punjab

KIRTI SINGH, J. (ORAL)

CRM-17704-2026

This is an application under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer for amendment in the headnote and the prayer clause of the petition, wherein the charge for offence punishable under Section 17 of POCSO Act, besides Sections 65(1) BNS [erstwhile Section 376(3)] and Section 6 of POCSO Act has been framed by the learned Trial Court against the applicant/petitioner vide order dated 17.01.2026.

Heard.

For the reasons mentioned in the application, the same is allowed and the Registry is directed to carry out necessary corrections in headnote and the prayer clause of the petition, subject to all just exceptions.

**MAIN CASE**

1. Prayer in the present petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita (for short- 'BNSS'), is for grant of regular bail to the petitioner, in case FIR No.32 dated 08.03.2025, under Sections 64, 3(5) of BNS, 2023, (corresponding to Sections 376, 34 IPC), Sections 5, 6 of the POCSO Act, 2012 and (Sections 65(1), 123, 137(2) of BNS, 2023 added subsequently (corresponding to Sections 376(3), 328, 363 IPC), registered at Police Station Nihal Singh Wala, District Moga.

2. The contents of the FIR are reproduced below:-

"Statement of Nirmal Singh son of Surjeet Singh son of Bhagat Singh resident of Near Gurudwara Baba Jeewan Singh, Madheke Road, Nihal Singh Wala, District Moga, aged about 44 years, M.No.98145-xxxxx. Stated that I am resident of above mentioned address and is a laborer. My marriage was solemnized about 17 years ago with xxxx resident of Bughipura, District Moga, from whom, I have four daughters. The elder daughter is xxxxx aged about 15 years, younger to her is xxxx aged about 14 years, younger to her is xxxx aged about 08 years and youngest to all is xzxxx aged about 04 years. My daughter xxx, whose date of birth is 18.08.2010, is studying in tenth standard in Government Senior Secondary School, Nihal Singh Wala. On 24.02.25, my daughter zxxxxxx got ready as usual and had left for school. I was also out of house in relation to my work. My daughter's school gets over at 03 PM. When my daughter did not reach home till 3:15 PM or 3:30 PM. then we started searching our daughter. On 1.3.25, we learnt that Pawandeep Singh's mother zxxxxxx wife of Nirmal Singh alias Nimbu resident of Madheke Road, Nihal Singh Wala was standing with my daughter xxxxx at Jagraon, from where, we brought back our daughter xxxxx and xxxx escaped for somewhere. After returning home, my daughter narrated the whole story by stating that when I was going to school, then Pawandeep Singh alias Kali son of Nirmal Singh alias Nimbu resident of Madheke Road, Nihal Singh Wala made me to sit on his motorcycle and took me to his house. None was present in the house. He administered me some intoxicating substance in water and I fell unconscious. After sometime, I gained consciousness and Pawandeep Singh and one another boy, who was being called by him as Charanjeet Singh, both of them made me to sit in the mid of motorcycle and after sitting for about 10 minutes in the house of Charanjeet Singh at Dhurkot Ransih, they held some discussion with each other. Thereafter, Pawandeep Singh made me to sit on his motorcycle and took me to somewhere else, regarding which, I know



nothing. We went to a house, where, he lodged me in a room and also brought tea, water and food for me, which I eaten up. Thereafter, I became unconscious, where, he did illicit act with me When I woke up in the morning. I had no cloth on my body. When I asked him about it, then he again did illicit act with me forcefully and without any consent and for whatever time. I remained there, he kept on doing forceful acts with me. On 5.3.25, my daughter felt unwell and we took her to Civil Hospital, Nihal Singh Wala, where, the whole story was narrated to the doctor sahib and he directed us to visit Civil Hospital, Moga. On 6.3.25, I got my daughter admitted in Civil Hospital, Moga. Pawandeep Singh did very wrong with my daughter, against whom, legal action be taken and justice be delivered to me. Statement got recorded to you, read over. which is correct." Sd/- Nirmal Singh above"

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in the present case on the statement made by the father of the prosecutrix. It is submitted that the petitioner and the prosecutrix, belonging to similar age bracket, were well-acquainted with each other. The said fact can be evinced from the photographs of the two annexed at Annexure P-2. Learned counsel submits that, a bare perusal of the statement of the prosecutrix, age of whom is a disputed question of fact, recorded before the learned Magistrate, reveals that she did not level allegations qua any overt act against the petitioner. Even otherwise, there is no cogent evidence on record to establish the alleged offences against the petitioner. The 19-year-old petitioner has already undergone an actual custody of 01 year, 01 month and 11 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, upon instructions from the Investigating Officer concerned, states that the



petitioner was actively involved in the commission of the offence. Learned State counsel 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, 01 month and 11 days. Investigation is complete. He also submits that the charges have been framed on 17.01.2026 and out of a total of 14 prosecution witnesses, none has been examined.

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. Trite to say that at the stage of considering a petition seeking bail, the Court, though not required to make a roving inquiry into the evidence, must take into consideration the nature of the offence, severity of



the punishment and *prima facie*, the involvement of the accused and the material on record.

8. Reverting to the case in hand, no overt allegation has been levelled against the 19 year old petitioner in the statement of the prosecutrix recorded before the learned Magistrate. Moreover, charges in the present case came to be framed on 17.01.2026. Yet, none out of 14 cited prosecution witnesses has 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 01 year, 01 month and 11 days.

9. 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.

10. 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. Therefore, upon taking into account all the considerations stated herein-before, 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.**

11. Accordingly, without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following 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.

12. 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.



CRM-M-18554-2026 (O&M)

-7-

2026:PHHC:061899



13. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

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

(KIRTI SINGH)
JUDGE

April 23, 2026
SwarnjitS

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