



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

231

**CRM-M No.21342 of 2026 (O&M)
Date of Decision: 24.04.2026**

Pawan Kumar

.....Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present: Mr. Manoj Tanwar, Advocate for the petitioner.

Mr. Vishal Singh, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

This is first petition for bail, filed by the petitioner under Section 483 of the 'Bharatiya Nagarik Suraksha Sanhita 2023'. This petition pertains to a case arising out of FIR No. 27 dated 19.01.2026, for the commission of offence punishable under Section(s) 318(4) and 61 of 'the Bharatiya Nyaya Sanhita, 2023' [Sections 238(c) and 336(3) of BNS added later on], Section(s) 3, 3B, 4, 5, 6, 18, 23 and 29 of 'the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994' and Section 34 of 'the National Medical Commission Act, 2019', Police Station City Narnaul, District Mahendergarh.

2. The FIR of this case came into being at the instance of 'Nodal Officer' (Civil Surgeon, Narnaul) who had reported that from a reliable source he received a tip-off that a racket was working in the area of District Narnaul, which was involved in the illegal activities of sex determination tests at



Kotputli (Rajasthan). According to above-mentioned complaint in order to fix the role of the members of the gang, a decoy customer was deputed to contact the gang members who settled a deal for determination of sex. As per complainant when it was found that the above said persons were involved in the above-mentioned illegal activities, they were nabbed and the FIR lodged.

3. **Notice of motion.**

4. Since advance notice has already been served upon the State, Mr. Vishal Singh, AAG, Haryana, has appeared on behalf of respondent-State. Hence, service of notice upon the State is hereby dispensed with. He has filed custody certificate of the petitioner. The same be taken on record. No formal reply has been filed by the State. However, the learned State counsel has orally opposed the present petition.

5. Heard.

6. It has been contended on behalf of petitioner that the only role attributed to the petitioner is that the petitioner was present with his wife for the sex determination test of foetus, and thus, he committed the abovementioned offence. According to learned counsel for the petitioner the above-mentioned allegation is false, and that there is no evidence to show that the petitioner had ever visited the hospital at Behror.

7. The learned State counsel has controverted the abovementioned arguments. According to learned State counsel, in order to fix the responsibility of the persons involved in the illegal activities with regard to sex determination of the foetus, a drive was conducted by the officials of the Health Department and ample evidence was collected by deputing a decoy customer, who revealed



that the gang was operating and the petitioner had finalized the deal for proving the services of the above-mentioned gang for the sex determination test.

8. The record has been perused carefully.

9. A perusal of the record shows that following are the relevant factors which are required to be taken into consideration for a decision in the present petition:-

- i) that the petitioner is already in custody for a period of more than three months;
- ii) that the offence is triable by the Court of Judicial Magistrate;
- iii) that the maximum punishment prescribed for the offence, for which the petitioner is being prosecuted, is imprisonment up to seven years;
- iv) that there is a serious question with regard to territorial jurisdiction of the Court to try the above mentioned offence, as the allegations are with regard to sex determination test within the State of Rajasthan but the FIR has been lodged in the State of Haryana;
- v) that there is a question mark as to whether the FIR in the instant case could have been lodged, as under PNDT Act the cognizance can be taken on a complaint only;
- vi) that the investigation is already complete, and therefore,



nothing has been left to be recovered from the possession of petitioner;

- vii) that the trial of this case is not likely to be concluded in near future;
- viii) that the detention of petitioner in judicial lock-up is not likely to serve any purpose;
- ix) that there is nothing on record to show that if released on bail, the petitioner may tamper with the evidence or influence the witnesses;
- x) that there is nothing on record to show that if released on bail, the petitioner will not co-operate/participate in the trial.

10. In the present case, the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Dataram versus State of Uttar Pradesh and another', (2018) 3 SCC 22, are relevant, wherein it has been observed 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. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have



been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case”.

11. The principles laid down by the Hon’ble the Supreme Court of India in the case of ‘Satender Kumar Antil v. Central Bureau of Investigation’ (2022) 10 SCC 51 are also relevant in this case. In the abovementioned case, it has been observed that “the rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice”.

12. Recently, in the case of ‘Tapas Kumar Palit Vs. State of Chhattisgarh’, 2025 SCC Online SC 322, the Hon’ble Supreme Court of India has observed that “if an accused is to get a final verdict after incarceration of



six to seven years in jail as an undertrial prisoner, then, definitely, it could be said that his right to have a speedy trial under Article 21 of the Constitution has been infringed”. It has also been observed by the Hon’ble Supreme Court of India in the abovementioned case that “delays are bad for the accused and extremely bad for the victims, for Indian society and for the credibility of our justice system, which is valued. Judges are the masters of their Courtrooms and the Criminal Procedure Code provides many tools for the Judges to use in order to ensure that cases proceed efficiently”.

13. To elucidate further, this Court is conscious of the basic and fundamental principle of law that right to speedy trial is a part of reasonable, fair and just procedure enshrined under Article 21 of the Constitution of India. This constitutional right cannot be denied to an undertrial prisoner, as mandated by Hon’ble Apex court in ‘Balwinder Singh versus State of Punjab and another’ 2024 SCC Online SC 4354.

14. Taking into consideration the cumulative effect of all the aforesaid factors, it is hereby held that the petitioner is entitled for the concession of bail, and that the present petition deserves to be allowed.

15. Accordingly, without commenting anything on the merits of the case, the present petition is hereby **allowed**. The petitioner is hereby ordered to be released on bail on furnishing personal bond and surety bond(s) to the satisfaction of learned trial Court. However, the abovesaid benefit shall be subject to following conditions:-

- i) that 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 other authority;

- ii) that the petitioner shall at the time of execution of bond, furnish the address to the Court concerned and shall notify the change in address to the trial Court, till the final decision of the trial; and
- iii) that the petitioner shall not leave India without prior permission of trial Court.

16. It is, however, made clear that any observation made hereinabove is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

(SURYA PARTAP SINGH)
JUDGE

24.04.2026

Manoj Bhutani

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