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

(214)

CRM-M-25942-2026 (O&M)

Date of Decision: 13.05.2026

AJAY SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Veneet Sharma, Advocate, for the petitioner.

Ms. Aakanksha Gupta, AAG, Punjab.

KIRTI SINGH, J. (ORAL)

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.111 dated 07.05.2025, under Sections 137(2), 87, 65(1), 127(3) of BNS and Section 6 of the POCSO Act, registered at Police Station Islamabad, Amritsar City, District Amritsar.

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

“Statement of Malkiat Singh son of Bachana Singh resident of House No. 265, Gali No.9, Indira Colony, Kot Khalsa, Amritsar aged about 42 years, Mobile No. 62846 xxxx. It is stated that I am resident of the above address and I am working as a Raj Mistri. My marriage took place about 18 years ago with xxxx daughter of Rashpal Singh, resident Gurdaspur and out of of Batala, District the wedlock three children were born, out of which my eldest daughter is xxxx, whose date of birth is 09.06.2009 and is aged about 15 years and 11 months, younger to her is my son Sahil Singh aged about 14 years and my youngest daughter xxxxx is aged about 10 years. on a.m. in the 05.05.2025 at about 9.00 morning like every day I went for my work and my son Sahil and younger daughter xxxx had gone to School and my wife xxxx and my elder daughter xxxx were at home. My wife xxxx at about 12.00 p.m. in the afternoon, went to the bathroom have bath and in the meantime my daughter xxxxx without informing and asking went away from the house and when my wife xxxxxxx came out bathroom, she saw that xxx was not at the house and she made inquiries regarding the girl near the house but could not find her and afterwards, my wife telephoned me that xxxxx could not be found and after hearing this I returned home and searched xxxxx at my own level but could



not find her, my and my family at our own level searched for the girl xxxx but could not find her. I have suspicion on Ajay son of Nikka resident of Gali No.9, Indira Colony, Kot Khalsa Amritsar and I am sure that he has enticed my daughter xxxxx and eloped her with an intention to marry. I have got statement recorded. Legal Singh action be aforesaid. my taken. LTI Malkiat Singh aforesaid”

3. Learned counsel for the petitioner submits that the petitioner, now aged about 25 years, has been falsely implicated in the present FIR, which was registered on the statement of the father of the prosecutrix. It is submitted that the allegation of enticing away the prosecutrix on the false pretext of marriage, and even that of sexual assault, remain unfounded against the petitioner. Moreover, even the material witnesses i.e. the prosecutrix and her parents, who stand examined before the learned Trial Court, have not supported the case of the prosecution and have turned hostile. Reliance in this regard is placed on copies of the respective testimonies annexed as Annexure P-2 to P-4. It is submitted that even the age of the prosecutrix is a disputed question of fact. Moreover, the petitioner has already undergone an actual custody of 10 months and 10 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. She, upon instructions from ASI Bhagwinder Singh, 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 10 months and 10 days. Investigation is complete. She also submits that the charges have been framed on 26.11.2025 and out of a total of 22 prosecution



witnesses, 07 have 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, it is borne out from the record that charges came to be framed on 26.11.2025. Yet, only 07 out of 22 cited prosecution witnesses have 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 10 months and 10 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 her release would impede the fair conduct of the trial. Moreover, it is noted that the material witnesses i.e. the prosecutrix and her parents, during the course of their examination before the trial Court, did not support the prosecution version and have been declared hostile. While it is settled that the probative value of such testimony is a matter for appreciation at the stage of final adjudication of the case, yet, even while refraining from entering into any conclusive evaluation thereof, this factum cannot be completely overlooked. 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



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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. 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.

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.



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

(KIRTI SINGH)
JUDGE

May 13, 2026
SwarnjitS

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