



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

(147)

CRM-M-72285-2025

Date of Decision: 23.03.2026

GURSEWAK SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Ms. Jainika Jain, Advocate
for the petitioner.

Mr. Luvinder Sofat, Sr. DAG, Punjab.

Mr. S. Singla, Advocate
for the complainant.

KIRTI SINGH, J. (ORAL)

1. The jurisdiction of this Court under Section 483 of BNSS has been invoked for grant of regular bail to the petitioner in case FIR No. 94 dated 09.07.2024 under Section 74 of BNS and Section 10 of POCSO Act, registered at Police Station Kotbhai, District Sri Muktsar Sahib, Punjab.

2. The translated version of the FIR is reproduced below:-

"Statement of xxxx daughter of Gurpreet Singh, resident of Manakpur (Sirsa), now Bathinda, age about 11-1/2 years, M.No. 903454xxxx, stated that I am a resident of the above said address, my mother xxxx had gone to Gidderbaha. On 31.05.2024, at around 5.30 pm evening, my maternal grandmother had gone to the house of someone for attending the birthday. I was alone at home, I was being playing with walker, then in the mean time my maternal uncle Gursewak Singh son of Sukhdev Singh, resident of Doda, called out to me, we had come to stay at his house in Doda. He said, "Preetu, come inside to find the motorcycle's belongings". Then my maternal uncle told me to come inside to the store room. Then he started to open my clothes with force, I opened my salwar and put on my shirt up. Then he started to touch my chest. I said, "Mama, what are you doing?" He said, "Be quiet, nothing will happen" In the mean time, my mother came from upstairs and then he pushed my mother and ran out. My aunt was also with my mother. The statement is correct. A case should be registered. Correct/- xxxx above, Sd/- xxxx, mother, SD/- Deepka Rani, SI, Chief Officer, Police Station Kotbhai, Dated 09.07.2024."



3. Mr. S. Singla, Advocate puts in appearance on behalf of the complainant and files his memo of appearance, which is taken on record.

4. Learned counsel for the petitioner submits that the petitioner, aged about 26 years, has been falsely implicated in the present case solely on the basis of the statement of the prosecutrix, who has alleged that the petitioner committed sexual assault and subjected her to inappropriate physical contact. It is submitted that the petitioner is the maternal uncle of the prosecutrix, and that there exists a prior dispute between the petitioner and his sister, who is the mother of the prosecutrix, with respect to the division of family property, for which reason, the instant FIR was malafidely got registered. It is further submitted that no cogent evidence has come on record to substantiate the allegations against the petitioner. Learned counsel submits that the petitioner has already undergone an actual custody of 01 year 08 months & 10 days and has clean antecedents.

5. *Per contra*, learned State counsel and learned counsel for the complainant have vehemently opposed the submissions made by the learned counsel for the petitioner. The learned State counsel states that the petitioner was actively involved in the commission of the offence. He 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 08 months & 10 days. The learned State counsel, on instructions from official concerned, submits that in the present case, charges were framed on 23.09.2024 and out of total 16 prosecution witnesses, 05 have been examined till date. He submits that in view of the serious allegations against the petitioner, he is not entitled to the concession of regular bail.

6. Heard the rival submissions made by learned counsel for the parties.



7. Before proceeding further, 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."

8. Reverting to the case in hand, it is borne out from the record that charges came to be framed on 23.09.2024. Yet only 05, out of 16 cited prosecution witnesses have been examined till date. 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 08 months & 10 days. It is also not disputed that he has no criminal antecedents and is not involved in any other case.

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, particularly when the material witnesses stand examined. 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 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, the present petition is allowed, and to ensure that the interests of justice are adequately safeguarded, the petitioner is ordered to be released on regular bail upon furnishing of adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate, subject to the following terms and 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. It is reiterated that the observations made in hereinabove are only for the purpose of adjudicating the present bail petition, and must not be construed as a final expression of opinion on the merits of the case.

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

(KIRTI SINGH)
JUDGE

March 23, 2026

Ritika

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