

CRM-M-36138-2025(O&M)

2025.PHHC.099999



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

219

**CRM-M-36138-2025(O&M)
Decided on: 05.08.2025**

KANHAIYA

. . . Petitioner(s)

Versus

STATE OF HARYANA

. . . Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

PRESENT: Mr. Harssh Bhaddana, Advocate and
Mr. Harsh Rathi, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

KIRTI SINGH, J. (Oral)

1. The jurisdiction of this Court has been invoked under Section 483 of BNSS for grant of regular bail to the petitioner in case FIR No.29 dated 31.01.2025, under Sections 376(2)(n) and 406 IPC, registered at Police Station Sector-14, District Gurugram, Haryana.
2. The contents of the aforesaid FIR are reproduced herein below:-

“It is requested that the accused Kanhaiya contacted me on Facebook on 01.05.2021 and after that he said that I will come to Sohna district Gurugram to ask for your hand from your parents, I have liked you. I can do anything to get you. That the above accused came to our house in Sohna district Gurugram in June 2021 and gave his Aadhar card 6385 8862 9185 whose address was Room No. 301, Maruti Bal No. 10 MG Road, Hindustan Naka Kandivali West Mumbai Maharashtra 400067 and said that he told my father and mother that my parents live in Azamgarh and my parents accepted him as their son-in-law by giving blessings and gave Rs 2100/- as bribe. That on or around 22.06.2021, the above accused took me to a hotel near Gurugram bus stand in a sly manner and there, on the pretext of giving me a party, took me to the hotel and had physical relations with someone else against my will. After this Kanhaiya talked to my parents like a son in law and said that I have showed Varsha's photo to my parents and they have agreed. Kanhaiya started coming to Sohna from Mumbai to meet me at an interval of 5-10 days and being considered as his son in law, my parents did not stop him from meeting me. The accused Kanhaiya took advantage of my innocence and forced me to get naked in my own room and forcibly had physical relations with me. I said that. you have done a lot wrong, after this he said that



our marriage is going to happen after two months so let me have a relationship as we are going to get married soon. That all the members of my family earn, my brother earns by putting a handcart and my mother works in a private company, this way we manage to survive well, Kanhaiya understood this thing, after this the accused Kanhaiya said that my father has cancer, my condition is bad, I need 1 lakh rupees, so my maternal uncle gave this amount to Kanhaiya in his account and thereafter he kept taking the money many times by making many excuses, then he started saying that your father said that I will spend upto Rs. 10 lakhs in the marriage, taking advantage of this promise he said that you write down the entire amount and do not spend it in the marriage. That the accused has fooled the complainant and her family and usurped the money in the following manner:-

1. Every time he came, my parents would give him Rs 1100/-, sometimes Rs 2100/- and sometimes Rs 5100/- as the son-in-law because he would talk like the marriage would take place within 1-2 months.

2. That the complainant, in trust, gave him a mobile phone worth Rs. 30,000/- on his birthday, a smart watch worth Rs. 6000/-, a smart watch worth Rs. 8000/-, a Silver bracelet worth Rs. 8000/- and many times gave him expensive pants and shirts.

3. The fact is that the culprit has also forcibly committed unnatural sex with me several times.

4. That Kanhaiya said that after marriage I will stay in Pune, therefore I am buying the plot and took about Rs 2,50,000/- from me and my family on the pretext of building a house.

5. That Kanhaiya said that I had an accident and my back is pressed, I have to get injections every week and I am not able to go to work, in this name he used to ask for Rs. 8000/- to 100000 every week.

6. Because I have bought a scooter and I have to pay its instalment. I have lost my job. Please give me the instalment amount.

7. That the landlord is in arrears, pay some amount.

8. Father has come to Mumbai for cancer treatment, please send some money.

9. That out of approximately Rs 10 lakhs, approximately Rs 5,00,000/- has been given to Kanhaiya from the account and the remaining amount has been paid in cash.

That the accused Kanhaiya came to Gurugram on 04.09.2023 and left on 11.09.2023. During these days, while he was with me, he had physical relations with me and left from Gurugram on 11.09.2023. On 12.12.2024 Kanhaiya had promised to marry me but before that Kanhaiya blacklisted the mobile phone of the complainant. The complainant had some doubts and spoke to his parents, then the father of the accused said that I did not go to Mumbai at all, after that I contacted Kanhaiya's friends through Instagram, then they told that Kanhaiya has made false promises of marriage to your parents, Kanhaiya loots money from many girls by making different false promises and has physical relations with them. Therefore, I request you that the above accused has cheated me of 10 lakh rupees on the name of dowry by giving false assurance of marriage and has made illicit relations, has deceived me in my trust, has done a lot of atrocities with me, I will be very grateful to you if all the money that I was cheated of is recovered and a case of rape is registered. I am writing this on my own will, without any pressure."



3. Learned counsel for the petitioner submits that the instant case is a classic example of false implication due to a long standing consensual relationship having turned sour. It is contended that in case of implication on the allegations of establishing sexual relations on the false promise of marriage, it must be proved that such a promise was made since the very beginning with the ulterior motive of deception, which is not so in the present case. The relationship in the instant case could not culminate into marriage due to certain unforeseen circumstances, including the deteriorating health of the father of the petitioner. Learned counsel submits that the claim of the prosecutrix that her family had spent approximately Rs.10 lakhs on the petitioner is also without any substance. All the financial and personal support provided to the petitioner, if any at all, was voluntary, given the nature of the relationship shared between the parties. It is further submitted that there are material improvements in the statement of the prosecutrix recorded under Section 183 of BNSS, including the averment that the petitioner had taken her to a hotel in Gurugram. Learned counsel, to further buttress his submissions, has placed reliance on the judgment of the Hon'ble Supreme Court passed in *Amol Bhagwan Nehul vs. The State of Maharashtra and Anr.*, SLP (Crl.) No.10044 of 2024, reported as 2025 INSC 782. The petitioner, who is in custody since 30.03.2025, has no other case registered against him.

4. *Per contra* learned State counsel has opposed the bail and submits that the petitioner was actively involved in the commission of the alleged offence. He has filed custody certificate in Court today and the same is taken on record. As per custody certificate, the petitioner has undergone actual custody of 04 months and there is no other case registered against him. He on instructions from investigating officer submits that challan was presented on 16.05.2025 and charges are yet to be framed. He, however, submits that in view of the serious allegations against the petitioner, petitioner is not entitled to the concession of regular bail.



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

6. From a perusal of the case in hand, it transpires that the petitioner is behind the bars since 30.03.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 16.05.2025 and charges are yet to be framed. The parties were admittedly in a long standing consensual relationship. The veracity of allegations and averments made, and the culpability of the petitioner, if any, would be determined at the time of trial, completion of which would take a considerable time. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India including the right to speedy trial, and is against the principle “Bail is a rule, jail is an exception” as elucidated in the judgment of Apex Court in **“Dataram Singh vs. State of Uttar Pradesh and another”, (2018) 3 SCC 22.**

7. Accordingly, 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 she 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/her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

CRM-M-36138-2025(O&M)

2025:PHHC:099999



8. 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.
9. 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.
10. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

05.08.2025
Kavita

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No