IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 1552 of 2026
Reserved on: 31.8.2026
Decided on: 07.9.2026

Radhe Shyam .... Petitioner

Versus

State of HP & ors. .... Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] ***No.***

For the Petitioner : Mr Pawanish Kumar Shukla, Advocate.

For the Respondents/State : Mr Tarun Pathak, Deputy Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for grant of regular bail in FIR No. 114 of 2026, dated 07.06.2026, registered at Police Station Ghumarwin, District Bilaspur, H.P., for the commission of offences punishable under Sections 126(2), 115(2), 109(1), 190, 191(2), 196(1), 196(2), 299, 351(2), 352, 324(6), and 238 of Bharatiya Nyaya Sanhita (BNS) and

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

2026:HHC:37618

Sections 3(1)(r), 3(1)(s) read with Section 3(2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

2. It has been asserted that, as per the prosecution, Amit Kumar made a call to the police regarding wrongful restraint and assault. The police reached the spot, where the informant, Raj Kumar, made a statement that he and other persons were travelling in two vehicles. They were wrongfully restrained by Sandeep Kumar, Surya, Vishal, Ramakant Sharma, Champa, Pooja, Sunita, Omkar, Dev Verma, Kaku, Manorama, Bimla, Praveen, Jagdeep, Amit Sharma, and another Jagdeep. The accused pulled out the occupants of the vehicle and beat them with sticks. The accused also abused and threatened the occupants. Ramesh Chand was pushed down the slope. Amit Kumar and Brij Lal were taken to a temple, and they were compelled to bow before a deity. The accused Sandeep Kumar abused Raj Kumar, Amit Kumar, Ramesh Kumar, Martha, Ganga Devi, Kalpna, Meena Devi, Bimla Devi, Meena Devi, and Brij Lal in the name of their caste. The police registered the FIR and investigated the matter. The police arrested the petitioner on 17.09.2024. The petitioner is innocent and was falsely implicated.

The police have completed the investigation and filed the charge-sheet before the Court. No fruitful purpose would be served by detaining the petitioner in custody. The petitioner would abide by the terms and conditions that the Court may impose. Hence, it was prayed that the present petition be allowed and the petitioner be released on bail.

3. The petition is opposed by filing a status report asserting that Raj Kumar, Amit Kumar, Ramesh Chand, Martha, Ganga Devi, Kalpna, Meena Devi, Bimla Devi, Meena Devi, and Brij Lal were going towards Hawan Bazar after taking the meals at the house of Raj Kumar. Sandeep Kumar stopped the vehicles and pulled out the occupants of their vehicle. Surya, Vishal Chandel, Ramakant Sharma, Champa Devi, Pooja, Sunita, Omkar, Dev Sharma, Kaku Kumar, Manorama, Prem Lal, Praveen, Jagdeep, Amit Sharma, and Sandeep gave beatings to the occupants. Some of the assailants were armed with sticks. The assailants pushed Ramesh Chand into a gorge. The assailants took Amit Kumar and Brij Lal to a temple, and they were forced to bow to the deity. The police registered the FIR and investigated the matter. Raj Kumar subsequently revealed that on 07.06.2026, he, Amit Kumar, Ramesh Kumar, Martha, Ganga Devi, Kalpna,

2026:HHC:37618

Meena Devi, Bimla Devi, Meena Devi, and Brij Lal were abused by Sandeep Kumar in the name of their caste. The Medical Officer found simple injuries on the person of Martha. He advised X-rays for Raj Kumar, Brij Lal, Ganga Devi, and Ramesh Kumar. The police seized the vehicles, the sticks, and the video recording produced by Amit Kumar. Raj Kumar, Ramesh Kumar, Ganga Devi, and Amit Kumar had sustained simple injuries. Brij Lal had suffered severe hearing loss in the left ear. The police arrested the accused. It was found that the petitioner and the co-accused had pushed Ramesh Chand into a 120 ft. deep gorge. Ramesh Chand had sustained injuries on his head, which could have been caused by striking against a stone. The accused belong to a non-Scheduled Caste, whereas Brij Lal and his wife belong to a Scheduled Caste. The police checked the call detail records and found the accused in touch with each other. The petitioner's location was found near the place of incident. The other accused are yet to be arrested. The petitioner had pushed Ramesh Chand into a deep gorge, and the offences are heinous. FIR No. 215 of 2024, dated 8.10.2024 is pending against the petitioner. The petitioner would influence the witnesses on his release on bail. Hence, the status report.

4. I have heard Mr. Pawnish Kumar Shukla, learned counsel for the petitioner, and Mr Tarun Pathak, learned Deputy Advocate General, for the respondent-State.

5. Mr Pawnish Kumar Shukla, learned counsel for the petitioner, submitted that the petitioner is innocent and was falsely implicated. He was not mentioned in the FIR, and his name was introduced subsequently. There is no material to connect the petitioner with the commission of the crime. The police have completed the investigation, and no fruitful purpose would be served by detaining the petitioner in custody. Hence, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Tarun Pathak, learned Deputy Advocate General for the respondent-State, submitted that the petitioner is involved in the commission of a heinous offence. He and the co-accused had pushed the informant into a gorge. The informant sustained injuries on his head. The offence was committed because the victim belonged to the Scheduled Caste, and it has large social ramifications. Therefore, he prayed that the present petition be dismissed.

2026:HHC:37618

7. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

8. The parameters for granting bail were considered by the Hon'ble Supreme Court in ***Pinki v. State of U.P., (2025) 7 SCC 314: 2025 SCC OnLine SC 781,*** wherein it was observed at page 380:

> **(*i*) *Broad principles for the grant of bail***
>
> **56.** In ***Gudikanti Narasimhulu v. High Court of A.P., (1978) 1 SCC 240: 1978 SCC (Cri) 115***, Krishna Iyer, J., while elaborating on the content of Article 21 of the Constitution of India in the context of personal liberty of a person under trial, has laid down the key factors that should be considered while granting bail, which are extracted as under: (SCC p. 244, paras 7-9)
>
> > "7. It is thus obvious that the nature of the charge is the vital factor, and the nature of the evidence is also pertinent. The punishment to which the party may be liable, if convicted or a conviction is confirmed, also bears upon the issue.
> >
> > *8. Another relevant factor is whether the course of justice would be thwarted by him who seeks the benignant jurisdiction of the Court to be freed for the time being.* [***Patrick Devlin, "The Criminal Prosecution in England"*** (Oxford University Press, London 1960) p. 75 — Modern Law Review, Vol. 81, Jan. 1968, p. 54.]
> >
> > *9. Thus, the legal principles and practice validate the Court considering the likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice. It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to*

habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the members of society. Bail discretion, on the basis of evidence about the criminal record of a defendant, is therefore not an exercise in irrelevance." (emphasis supplied)

57. In ***Prahlad Singh Bhati v. State (NCT of Delhi), (2001) 4 SCC 280: 2001 SCC (Cri) 674***, this Court highlighted various aspects that the courts should keep in mind while dealing with an application seeking bail. The same may be extracted as follows: (SCC pp. 284-85, para 8)

"*8. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles, having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy it (sic itself) as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge.*" (emphasis supplied)

58. This Court in ***Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598: 2002 SCC (Cri) 688***, speaking through Banerjee, J., emphasised that a court exercising discretion in matters of bail has to undertake the same judiciously. In highlighting that bail should not be granted as a matter of course, bereft of cogent reasoning, this Court observed as follows: (SCC p. 602, para 3)

> "*3. Grant of bail, though being a discretionary order, but, however, calls for the exercise of such a discretion in a judicious manner and not as a matter of course. An order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts do always vary from case to case. While the placement of the accused in society, though it may be considered by itself, cannot be a guiding factor in the matter of grant of bail, the same should always be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — the more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.*" (emphasis supplied)

59. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528: 2004 SCC (Cri) 1977***, this Court held that although it is established that a court considering a bail application cannot undertake a detailed examination of evidence and an elaborate discussion on the merits of the case, yet the court is required to indicate the prima facie reasons justifying the grant of bail.

60. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496: (2011) 3 SCC (Cri) 765***, this Court observed that where a High Court has granted bail mechanically, the said order would suffer from the vice of non-application of mind, rendering it illegal. This Court held as under with regard to the circumstances under which an order granting bail may be set aside. In doing so, the factors which ought to have guided the Court's decision to grant bail have also been detailed as under: (SCC p. 499, para 9)

> "*9. ... It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this*

Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(*i*) *whether there is any prima facie or reasonable ground to believe that the accused had committed the offence*;

(*ii*) *nature and gravity of the accusation*;

(*iii*) *severity of the punishment in the event of conviction*;

(*iv*) *danger of the accused absconding or fleeing, if released on bail*;

(*v*) *character, behaviour, means, position and standing of the accused*;

(*vi*) *likelihood of the offence being repeated*;

(*vii*) *reasonable apprehension of the witnesses being influenced; and*

(*viii*) *danger, of course, of justice being thwarted by grant of bail.*" (emphasis supplied)

xxxxxxx

62. One of the judgments of this Court on the aspect of application of mind and requirement of judicious exercise of discretion in arriving at an order granting bail to the accused is ***Brijmani Devi v. Pappu Kumar, (2022) 4 SCC 497 : (2022) 2 SCC (Cri) 170***, wherein a three-Judge Bench of this Court, while setting aside an unreasoned and casual order (***Pappu Kumar v. State of Bihar, 2021 SCC OnLine Pat 2856*** and ***Pappu Singh v. State of Bihar, 2021 SCC OnLine Pat 2857***) of the High Court granting bail to the accused, observed as follows: (***Brijmani Devi v. Pappu Kumar, (2022) 4 SCC 497 : (2022) 2 SCC (Cri) 170]***), SCC p. 511, para 35)

"*35. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly,*

2026:HHC:37618

> *when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record to enable a court to arrive at a prima facie conclusion. While considering an application for the grant of bail, a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence(s) alleged against an accused.*" (emphasis supplied)

9. Hon'ble Supreme Court held in ***State of Rajasthan v. Balchand*, *(1977) 4 SCC 308: 1977 SCC (Cri) 594: 1977 SCC OnLine SC 261*** that the normal rule is bail and not jail, except where the gravity of the crime or the heinousness of the offence suggests otherwise. It was observed at page 308:

> **2.** The basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, by the petitioner who seeks enlargement on bail from the Court. We do not intend to be exhaustive but only illustrative.
>
> **3.** It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh with us when considering the question of jail. So also, the heinousness of the crime...."

10. The present petition has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

11. The FIR and the subsequent statement made by the informant do not mention the petitioner's name, even though the names of other co-accused have been mentioned. The status report mentions that the petitioner and the co-accused had pushed Ramesh Chand into a 120 ft. gorge and Ramesh Chand had sustained an abrasion on the head with some bleeding. The status report further mentions that severe injuries could have been caused by falling from a distance of 120 feet. However, the fact that only abrasions were found on the head *prima facie* makes it doubtful that the informant Ramesh Chand was pushed into the gorge.

12. The informant had not named the petitioner as the person who had abused him in the name of the caste; rather, he stated that Sandeep had abused him in the name of the caste. The absence of the petitioner’s name in the FIR and subsequent statement and the nature of the injuries make it difficult to *prima facie* connect the petitioner with the commission of the crime.

13. The police have completed the investigation, and only some of the accused are to be arrested. Therefore, no fruitful purpose would be served by detaining the petitioner in custody.

14. The petitioner asserted that he is a permanent resident of District Bilaspur. This was not stated to be incorrect in the status report filed by the police. This means that the petitioner has roots in the society and there is no chance of his absconding.

15. It was submitted that the petitioner would intimidate the witnesses in case of his release on bail. This apprehension can be removed by imposing the conditions and is not sufficient to deny bail to the petitioner.

16. In view of the above, the present petition is allowed, and the petitioner is ordered to be released on bail subject to his furnishing bail bonds in the sum of ₹1,00,000/- with one surety in the like amount to the satisfaction of the learned Trial Court. While on bail, the petitioner will abide by the following conditions: -

(i) The petitioner will not intimidate the witnesses, nor will he influence any evidence in any manner whatsoever.

(ii) The petitioner shall attend the trial on each and every hearing and will not seek unnecessary adjournments.

(iii) The petitioner will not leave the present address for a continuous period of seven days without furnishing the address of the intended visit to the

SHO concerned, the Police Station concerned and the Trial Court.

(iv) The petitioner will surrender his passport, if any, to the Court; and

(v) The petitioner will furnish his mobile number and social media contact to the Police and the Court and will abide by the summons/notices received from the Police/Court through SMS/WhatsApp/Social Media Account. In case of any change in the mobile number or social media accounts, the same will be intimated to the Police/Court within five days from the date of the change.

17. It is expressly made clear that in case of violation of any of these conditions, the prosecution will have the right to file a petition for cancellation of the bail.

18. The petition stands accordingly disposed of. A copy of this order be sent to the Jail Superintendent, Open Air Jail, Jamali, District Bilaspur, H.P.

19. The observations made hereinabove are regarding the disposal of this petition and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

7th September, 2026
(Chander)

CHANDER SHEKHAR

Digitally signed by CHANDER SHEKHAR
Date: 2026.09.07 12:15:38 +0530