IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 1964 of 2026
Decided on: 28.10.2026

Kutubdeeen ...Petitioner

Versus

State of Himachal Pradesh & Anr. ...Respondents

Coram
Hon'ble Mr Justice Chirag Bhanu Singh, Judge.
Whether approved for reporting?[1]

For the Petitioner	:	Mr. Ashok K. Tyagi, Advocate.
For the Respondents	:	Mr. Raj Pal Thakur, Additional Advocate General, assisted by HC Sachin Kumar, No. 34, Police Station Majra, District Sirmaur, H.P.

Chirag Bhanu Singh, Judge (Oral)

The present bail petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking post-arrest bail in FIR No. 125 of 2026, dated 03.07.2026, registered at Police Station Majra, District Sirmaur, H.P., under Sections 64, 137(2) & 351(2) of the Bharatiya Nyaya Sanhita, 2023 (in short BNS) and Section 6 of the Protection of Children

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

from Sexual Offences Act, 2012 (hereinafter referred to as the "POCSO Act").

2. In pursuance to an order dated 01.10.2026, respondent-State has filed the status report.

3. The facts which can be culled out from the status report are that the father of the prosecutrix had got lodged a report on 03.07.2026 that his daughter, i.e. the prosecutrix, who was sleeping with her mother, had gone missing from the house.

4. The prosecutrix, however, was found in the bus stand at Paonta Sahib itself on the very next day, 04.07.2026. The father of the prosecutrix, however, had expressed suspicion of the petitioner having been complicit in the crime. He thus came to be arrested and is presently in judicial custody.

5. I have heard the learned counsel for the parties and gone through the records carefully.

6. The prosecutrix is also present in the Court today.

7. The prosecutrix has submitted that the FIR had been got registered under some misconception of facts. A similar statement had been got recorded by the prosecutrix before the

learned Additional Sessions Judge, Fast Track Special Court (Rape/POCSO), District Sirmour, on 03.09.2026, copy of which has been annexed along with the bail petition.

8. The perusal of the record further shows that even in her supplementary statement recorded on 04.07.2026, the prosecutrix in uncertain terms had got recorded that it was she who had accompanied the accused of her own volition, and nothing had happended with her, while she stayed in the company of the petitioner/accused.

9. It further transpires from the record that initially the prosecutrix had refused to get her medical conducted. The same had been got conducted at the insistence of her father only.

10. It also emerges from the record that the petitioner and the prosecutrix were also known to each other.

11. Both being adolescents and seeing to the nature of allegations, more particularly the fact that the prosecutrix herself in her supplementary statement had categorically stated that the petitioner had never sexually assaulted her, it thus would prima facie appears that the FIR came to be registered at the instance of her father.

12. The mother of the prosecutrix is also present in the Court today. She also submits that the FIR had been got recorded under some misconception of facts.

13. As per the status report, the challan already stands filed. The conclusion of the trial is thus likely to take sufficient time. Seeing to the nature of allegations, as have been discussed above, the ages of the accused and the prosecutrix, it seems to be a fit case where pre-trial incarceration is not required. Pre-trial incarceration, is otherwise also generally loathed by the Courts. The Hon'ble Supreme Court and this Court in a catena of decisions have repeatedly held that an accused is presumed to be innocent until proven guilty. The stance of the prosecutrix in this case and her statements during the entire inquiry also fortifies the said legal presumption. This complicity in the offence itself seems doubtful.

14. No doubt the provisions of the POCSO Act have been attracted, but seeing to the very statement of the prosecutrix, the nature of allegations, their age, and the relationship between the two, it would be in the interest of justice and fair play that the discretion of bail is exercised in his favour.

15. For all the reasons discussed hereinabove, the bail petition is thus allowed. As a sequel, the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the tune of Rs.50,000/- with two sureties of the like amount, to the satisfaction of the learned Trial Court subject to the following conditions:-

> "i) That the petitioner shall not tamper with the prosecution evidence nor intimidate, threaten or coerce the witnesses conversant with the facts of the case;
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> ii) That the petitioner shall put in appearance before the Investigating Officer or the Court as and when directed;
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> iii) That the petitioner shall not leave the territory of India without the express permission of the Court, he shall surrender passport, if any, before the investigating agency."

16. The observation made herein before shall remain confined to the disposal of the petition and will have no bearing, whatsoever, on the merits of the case.

17. The petition stands accordingly disposed of. A copy of this order be sent to the Superintendent, **Model Central Jail Nahan, District Sirmaur, H.P. and the learned Trial Court by FASTER.**

18. A downloaded copy of this order shall be accepted by the learned Trial Court while accepting the bail bonds from the petitioner and in case, said Court intends to ascertain the veracity of the downloaded copy of the order presented to it, same may be ascertained from the official website of this Court.

(Chirag Bhanu Singh)
Judge

28th October, 2026
(Shamsh Tabrez)

SHAMSH TABREZ

Digitally signed by SHAMSH TABREZ
Date: 2026.10.28 17:28:27 +0530