IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 2038 of 2026
Reserved on: 27.10.2026
Date of Decision 30.10.2026

Rohit .... Petitioner

Versus

State of HP .... Respondent

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] No.

For the Petitioner	:	Mr Arsh Chauhan, Advocate.
For the respondent/ State	:	Mr P.K. Nadda, Additional Advocate General with HC Rajeev 323 I.O. W.P.S. Nahan, District Sirmour, H.P.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 9 of 2026, dated 8th June, 2026, registered at Women Police Station, Nahan, District Sirmour, H.P for the commission of offences punishable under Sections 64 and 115(2) of the Bharatiya Nyaya Sanhita (BNS) and Section 6 of the Protection of Children from Sexual Offences Act (POCSO), 2012.

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

2. It has been asserted that, as per the prosecution, the petitioner brought the victim to Nahan on the pretext of her treatment and studies, and thereafter subjected her to sexual intercourse. These allegations are false. The police have completed the investigation and filed the charge-sheet before the Court. The petitioner's custodial interrogation is not required. 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 the informant/victim is suffering from diabetes. The petitioner used to visit the informant's house, and he knew about the informant's medical condition. He took the victim with him on 9th May, 2026, by saying that he would get her treated. The petitioner kept the informant with him and promised to marry her. He subjected the victim to sexual intercourse. He also gave her beatings. The victim escaped from the petitioner and reported the matter to the police. The police arrested the petitioner. As per the record, the victim was born on 19th July, 2009, and was aged 16 years and 9 months. The report of analysis did not find any match between the DNA of the victim and the petitioner. The charge-

sheet has been filed before the Court, and the matter is listed on 18th November, 2026, for filing the supplementary charge-sheet. Hence, the status report.

4. The notice of the petition was issued to the victim. She appeared in the Court in person and stated that she had no objection to allowing the bail petition.

5. I have heard Mr Arsh Chauhan, learned Counsel for the petitioner, and Mr P.K. Nadda, learned Additional Advocate General, for the respondent-State.

6. Mr Arsh Chauhan, learned Counsel for the petitioner, submitted that the petitioner is innocent and has been falsely implicated. The victim has no objection to allowing the bail petition. The victim is solely dependent upon the petitioner, who is taking care of her, and the FIR was registered as a result of some misunderstanding. The parties intend to marry each other. The informant's version is not corroborated by the report of analysis, as the victim's DNA was not found on any of the samples collected by the police. The police have filed the charge-sheet before the Court, 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.

7. Mr P.K. Nadda, learned Additional Advocate General, for the respondent-State submitted that the victim is a minor and incapable of giving any consent; therefore, the statement made by her before this Court or the learned trial Court is of no significance. The petitioner is involved in the commission of a heinous offence, and he should not be released on bail. Hence, he prayed that the present petition be dismissed.

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

9. 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***
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> **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)
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> > "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 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*:
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> (*i*) *whether there is any prima facie or reasonable ground to believe that the accused had committed the offence*;
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> (*ii*) *nature and gravity of the accusation*;
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> (*iii*) *severity of the punishment in the event of conviction*;
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> (*iv*) *danger of the accused absconding or fleeing, if released on bail*;
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> (*v*) *character, behaviour, means, position and standing of the accused*;
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> (*vi*) *likelihood of the offence being repeated*;
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> (*vii*) *reasonable apprehension of the witnesses being influenced; and*
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> (*viii*) *danger, of course, of justice being thwarted by grant of bail.*" (emphasis supplied)
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> **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)
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> > "*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 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)

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

11. The MLC of the victim does not show any injury on her person. The status report mentions that the DNA sample of the

petitioner and the informant did not match. Thus, *prima facie*, the MLC and report of analysis do not corroborate the informant's version that she was beaten and subjected to sexual intercourse.

12. The informant had stated before the learned trial Court, as recorded in the bail order, that she was engaged to the petitioner for marriage. She registered the FIR because her sugar had spiked and she had a quarrel with the petitioner. Her mother had also stated before the learned trial Court that there is no one to take care of the victim except the petitioner. The victim also reiterated this stand before this Court. Hence, the statements made by the victim before the learned trial Court and this Court make it difficult to rely upon her initial version that she was subjected to sexual intercourse by the petitioner.

13. It is undisputed that the police have filed the charge-sheet before the Court, and no fruitful purpose would be served by detaining the petitioner in custody. The petitioner is already engaged to the victim as per her version. He is taking care of her, and the victim does not have any person to look after her. Hence, keeping the petitioner in custody would harm the victim's interest.

Therefore, under these circumstances, the petitioner's further detention is not justified.

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

15. 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 each 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 addresses 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.

16. 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.

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

18. The observations made hereinabove are regarding the disposal of these petitions and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge.

30th October, 2026.
(Ravinder)

RAVINDER KUMAR
Digitally signed by RAVINDER KUMAR
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