



**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. MP(M) No. 199 of 2026**

**Reserved on: 17.03.2026**

**Date of Decision: 25.03.2026.**

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Ajay Kumar Chaudhary ...Petitioner

Versus

State of Himachal Pradesh & Anr ...Respondents

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*Coram*

***Hon'ble Mr Justice Rakesh Kainthla, Judge.***

***Whether approved for reporting?<sup>1</sup> No***

For the Petitioner : Mr Sanjeev Kumar Suri, Advocate.

For Respondent/State : Mr Lokender Kutlehria, Additional  
Advocate General.

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***Rakesh Kainthla, Judge***

The petitioner has filed the present petition for seeking regular bail in FIR No. 53 of 2025, dated 14.05.2025, registered at the Police Station Gagret, District Una, H.P., for the commission of offences punishable under Sections 376, 511, 506, and 120B of the Indian Penal Code (IPC).

2. It has been asserted that, as per the prosecution, the victim made a complaint against the petitioner that he had sexual

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<sup>1</sup> Whether reporters of Local Papers may be allowed to see the judgment? Yes.



intercourse with her on the pretext of marriage on 05.01.2021 and 17.02.2021. The allegations made by the victim are false. She identified the hotel at Mukerian, District Hoshiarpur, Punjab, after seven months. The petitioner had filed an application seeking pre-arrest bail before this Court, which was dismissed on 11.11.2025. The petitioner preferred a special leave petition, which was also dismissed by the Hon'ble Supreme Court on 26.11.2025. The petitioner surrendered in the Court of the learned Additional District and Sessions Judge-1, Una, on 02.12.2025. The police have completed the investigation, and the petitioner's custodial interrogation is not required. The petitioner belongs to a respectable family. He has roots in society, and there is no likelihood of his absconding. Hence, it was prayed that the present petition be allowed and the petitioner be released on bail.

3. The State has filed a status report asserting that the accused had harassed the informant at the instance of the co-accused. The informant's mother took her to the co-accused when she was 16 years old. The co-accused served water to her, and she became unconscious. The co-accused took her to a room and did something wrong to her. The matter was compromised



before the Panchayat, and the Panchayat also imposed a fine upon the co-accused. The co-accused told the informant's parents that he would not do anything wrong with her. The petitioner met the informant. He asked the informant to marry him. The informant initially agreed, but she found out that the petitioner was acting at the instance of the co-accused. The petitioner offered some drink to the informant. She became unconscious, and the petitioner raped her. The informant made complaints against the petitioner and the co-accused before Deputy Commissioner, Una. The complaint was sent to the police, and a Zero FIR was registered on 15.05.2023. No action was taken. The informant made an online complaint. She also wrote letters to this Court. The matter was inquired through DLSA, Una. The police registered the FIR and investigated the matter. The victim was medically examined, and as per the report, the possibility of sexual intercourse in the past could not be ruled out. The victim made a statement before the learned Magistrate under Section 183 of Bharatiya Nagrik Suraksha Sanhita (BNSS), 2023, that she was raped by the co-accused. She had narrated the incident to her family members, but no action was taken by them. She came in



contact with the petitioner, who assured the victim that he would get the matter solved between her and the co-accused. He called her to Talwara. He offered a cold drink to her on 5.1.2021. She was lying unconscious in a room in a hotel. She found that the petitioner had raped her. The petitioner threatened the victim by saying that he had a video. The victim was taken to the spot, but she could not identify the hotel. The co-accused had filed a bail petition, which was dismissed by this Court. The petitioner joined the investigation, and as per the opinion of the Medical Officer, he was fit to perform sexual activity. The charge sheet has been filed before the Court. The petitioner surrendered on 02.12.2025 in the Court of the learned Additional Sessions Judge-1, Una, after the dismissal of his bail petition. The police obtained his custody. The petitioner did not identify the place of the incident. He also failed to get the victim's mobile phone recovered. The victim visited the Police Station on 26.12.2025 and disclosed that she had identified the Hotel where the petitioner had taken her and raped her. She identified Room No.7 in Maan Lodhi Restaurant and Hotel and disclosed that the petitioner had raped her in the room on 05.01.2021 and 17.02.2021. The photographs were taken. The

samples have been sent to RFSL Dharamshala for DNA profiling, and the result is awaited. Hence, the status report.

4. I have heard Mr. Sanjeev Kumar Suri, learned counsel for the petitioner and Mr. Lokender Kutlehria, learned Additional Advocate General, for the respondent/State.

5. Mr Sanjeev Kumar Suri, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The petitioner had surrendered after a dismissal of his pre-arrest bail application. The police have filed the chargesheet, and the petitioner's custodial interrogation is not required. The petitioner belongs to a respectable family, and he would abide by the terms and conditions that the Court may impose. Learned Trial Court has already released the co-accused on bail, and the petitioner is entitled to bail on the principle of parity. Therefore, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State, submitted that the petitioner is involved in the commission of a heinous crime. He would



intimidate the victim in case of his bail. Therefore, 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*

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, 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. 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....”

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

12. The victim had made the allegations against Rakesh Kumar Shah and the petitioner. She claimed that Rakesh Kumar Shah had attempted to rape her. The petitioner met her at the instance of Rakesh Kumar and raped her. The learned Trial Court had released Rakesh Kumar Shah on bail vide order dated 26.11.2025. Since the allegation against the petitioner and Rakesh Kumar Shah is that they were acting in connivance with each other; therefore, the petitioner is entitled to bail once Rakesh Kumar Shah has been released on bail.

13. The status report mentions that the charge sheet has been filed before the Court, and the matter was listed for office report on 18.03.2026. It means that the investigation is complete and the petitioner’s custody is not required.



14. It was submitted that the petitioner would influence the victim in case of his release on bail. This cannot be accepted. The status report mentions that the petitioner had obtained a pre-arrest bail from the Court on 26.07.2025, which was dismissed on 11.11.2025. There is no allegation that the petitioner had influenced the victim during the period he was granted bail. Hence, the previous conduct of the petitioner does not justify the apprehension of the prosecution that the petitioner would influence the victim if released on bail. Otherwise also, this apprehension can be removed by imposing conditions, and it is not sufficient to deny bail to the petitioner.

15. The petitioner claimed that he is a permanent resident of District Hoshiarpur. This was not stated to be incorrect in the status report. Thus, the plea taken by the petitioner that he has roots in society and there is no chance of his absconding is acceptable.

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 of *District Jail Una at Bangarh, H.P.* and the learned Trial Court by *FASTER*.

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

**(Rakesh Kainthla)**  
**Judge**

25<sup>th</sup> March, 2026  
(Nikita)