



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MPM No. 391 of 2026

Reserved on: 16.03.2026

Date of Decision: 25.3.2026.

Sukant Chauhan Petitioner

Versus

State of HP Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No

For the Petitioner : Ms Ritasha, Proxy counsel.

For the Respondent-State : Mr Ajit Sharma, Deputy
Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking pre-arrest bail in FIR No. 64 of 2026, dated 04.03.2026, registered at Police Station, Ghumarwin, District Bilaspur, H.P., for the commission of offences punishable under Sections 109, 191(2), 191(3), 190 and 115(2) of Bhartiya Nyaya Sanhita (BNS), 2023.



2. It has been asserted that the petitioner is a law-abiding citizen. He was falsely implicated due to the local rivalry and a previous dispute based on a statement made by the informant. The allegations in the FIR are exaggerated. The informant had beaten the co-accused, but no FIR was registered against him, whereas an FIR was registered against the petitioner under the political influence. The petitioner's custodial interrogation is not required. The petitioner would abide by the terms and conditions that the Court may impose. Therefore, it was prayed that the present petition be allowed and the petitioner be released on bail.

3. The State filed a copy of the FIR in which it was asserted that Naveen @ Monu, his brother Nonu, Sunny, Sukant Chauhan (the present petitioner) and his brother Jattu were quarrelling with each other on Kasohal bridge on 04.03.2026. The informant asked them not to quarrel. The informant had gone to the shop to purchase groceries on the same day at 7 PM. Naveen, Monu, Nonu, Sunny, Sukant, Jattu and 15 other persons came to the shop armed with *Gandasa*, sword and sticks. Naveen had *Gandasa*, and the petitioner had a sword. The other people had



sticks. Naveen inflicted a blow on the informant's head with a *Gandasa*, and the other persons also inflicted injuries with swords, sticks, kicks and fist blows. The informant became unconscious. He was taken to the hospital. An intimation was given to the police. The police registered the FIR and recorded the informant's statement.

4. I have heard Ms Ritasha, learned proxy counsel representing the petitioner and Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State.

5. Ms Ritasha, learned proxy counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The petitioner was not present in the shop, and a false FIR was lodged against him due to political rivalry. The petitioner has roots in society, and there is no chance of his absconding. 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.

6. Mr Ajit Shrama, learned Deputy Advocate General for the respondent/State, submitted that the petitioner, along with



the co-accused, had attacked the informant with deadly weapons. The informant had sustained multiple injuries. The investigation is at the preliminary stage, and the weapons of offence are yet to be recovered. The custodial interrogation of the petitioner is necessary. Hence, he prayed that the present petition be dismissed.

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

8. It was laid down by the Hon'ble Supreme Court in *P. Chidambaram v. Directorate of Enforcement*, (2019) 9 SCC 24: (2019) 3 SCC (Cri) 509: 2019 SCC OnLine SC 1143 that arrest is a part of the investigation procedure. The power of pre-arrest bail is extraordinary and should be sparingly exercised. It was observed:

“69. Ordinarily, an arrest is a part of the procedure of the investigation to secure not only the presence of the accused but also several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power, and the same has to be exercised sparingly. The privilege of pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; the possibility of the applicant fleeing justice, and other factors to decide whether it is a fit case for the grant of anticipatory bail. Grant of anticipatory bail to some extent interferes with the sphere of investigation of an offence, and hence, the



court must be circumspect while exercising such power for the grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule, and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

9. This position was reiterated in *Srikant Upadhyay v. State of Bihar*, 2024 SCC OnLine SC 282, wherein it was held:

“25. We have already held that the power to grant anticipatory bail is extraordinary. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of the imagination, be said that anticipatory bail is the rule. It cannot be the rule, and the question of its grant should be left to the cautious and judicious discretion of the Court, depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious, as the grant of interim protection or protection to the accused in serious cases may lead to a miscarriage of justice and may hamper the investigation to a great extent, as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest, and we say that such orders shall be passed in eminently fit cases.”

10. It was held in *Pratibha Manchanda v. State of Haryana*, (2023) 8 SCC 181: 2023 SCC OnLine SC 785 that the Courts should balance individual rights, public interest and fair investigation while considering an application for pre-arrest bail. It was observed:



“21. The relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tightrope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each case becomes crucial to ensure a just outcome.”

11. It was held in *Devinder Kumar Bansal v. State of Punjab*, (2025) 4 SCC 493: 2025 SCC OnLine SC 488 that pre-arrest bail can be granted in exceptional circumstances where the Court is of the view that the petitioner was falsely implicated in the case. The presumption of innocence cannot be a reason to grant bail. It was observed at page 501:

“21. The parameters for the grant of anticipatory bail in a serious offence like corruption are required to be satisfied. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has been falsely implicated in the crime or the allegations are politically motivated or are frivolous. So far as the case at hand is concerned, it cannot be said that any exceptional circumstances have been made out by the petitioner-accused for the grant of anticipatory bail, and there is no frivolity in the prosecution.

22. In the aforesaid context, we may refer to a pronouncement in *CBI v. V. Vijay Sai Reddy* [*CBI v. V. Vijay Sai*



Reddy, (2013) 7 SCC 452: (2013) 3 SCC (Cri) 563], wherein this Court expressed thus: (SCC p. 465, para 34)

“34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character 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/State and other similar considerations. It has also to be kept in mind that for the purpose of granting 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 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. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond a reasonable doubt.” (emphasis in original and supplied)

23. The presumption of innocence, by itself, cannot be the sole consideration for the grant of anticipatory bail. The presumption of innocence is one of the considerations that the court should keep in mind while considering the plea for anticipatory bail. The salutary rule is to balance the cause of the accused and the cause of public justice. Over-solicitous homage to the accused's liberty can, sometimes, defeat the cause of public justice.

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

13. FIR mentions that the petitioner was armed with a sword, and Naveen was armed with a Gandasa. Multiple injuries



were caused to the informant. *Prima-facie* these allegations show the involvement of the petitioner in the commission of an offence punishable under Section 109(1) of BNS.

14. The offence alleged against the petitioner is heinous, and the investigation is continuing. There is a force in the submission of Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State, that custodial interrogation is necessary for effecting the recovery and eliciting the circumstances related to the commission of crime.

15. It was laid down by the Hon'ble Supreme Court in *State Versus Anil Sharma (1997) 7 SCC 187* that where custodial interrogation is required, pre-arrest bail should not be granted.

It was observed: -

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable order under Section 438 of the Code. In a case like this, effective interrogation of a suspected person is of tremendous advantage in disinterring much useful information and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often, interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is



fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offender”

16. A similar view was taken by the Delhi High Court in *Mukesh Khurana v. State (NCT of Delhi)*, 2022 SCC OnLine Del 1032, wherein it was observed: -

“13. One of the significant factors in determining this question would be the need for custodial interrogation. Without a doubt, custodial interrogation is more effective to question a suspect. The cocoon of protection afforded by a bail order insulates the suspect, and he could thwart interrogation, reducing it to futile rituals. But it must also be kept in mind that while interrogation of a suspect is one of the basic and effective methods of crime solving, the liberty of an individual also needs to be balanced out.”

17. It was held in *P Chidambaram* (supra) that the grant of pre-arrest bail may hamper the investigations. It was observed:

“83. Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting useful information, and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences, would definitely hamper the effective investigation. Having



regard to the materials said to have been collected by the respondent Enforcement Directorate and considering the stage of the investigation, we are of the view that it is not a fit case to grant anticipatory bail.”

18. It was submitted that the co-accused has been released on regular bail. This submission will not help the petitioner because the parameters for granting pre-arrest bail and regular bail are different. Thus, the petitioner cannot claim to be released on pre-arrest bail simply because the other accused has been released on regular bail.

19. No other point was urged.

20. In view of the above, the present petition fails, and it is dismissed.

21. The observations made heretofore shall remain confined to the disposal of the petition and will have no bearing, whatsoever, on the merits of the case.

(Rakesh Kainthla)
Judge

25th March, 2026
(Nikita)