



2026:HHC:13260

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.545 of 2026

Date of Decision: 23.04.2026

Sunny Gill

.....Petitioner

Versus

State of Himachal Pradesh

.....Respondent

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the petitioner: Mr. Prashant Sharma, Advocate.

For the Respondent: Mr. Rajan Kahol, Mr. Vishal Panwar and Mr. B.C. Verma, Additional Advocates General with Mr. Ravi Chauhan, Deputy Advocate General.

HC Abhinandan No.39, PS Sadar, District Bilaspur,
H.P. present in person along with record.

Sandeep Sharma, J. *(Oral)*

Bail petitioner namely Sunny Gill, who is behind the bars since 20.6.2024, has approached this Court in the instant proceedings filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, for grant of regular bail in case FIR No.160/2024, dated 20.6.2024 under Sections 307, 120-B & 201 of IPC and Section 25 of Arms Act, registered at PS Sadar, District Bilaspur, Himachal Pradesh.



2. Respondent-State has filed the status report and HC Abhinandan has come present with record. Record perused and returned.

3. In nutshell, case of the prosecution, as emerges from the status report/record made available to this Court, is that on 20.6.2024, at 1:48 p.m., one gun shot was fired in the premises of District Court, Bilaspur, as a result thereof, one person namely Saurav Patyal alias Fandi had sustained bullet injury on his back. Allegedly the gunshot was fired by the bail-petitioner, who, after the incident, fled from the place of occurrence. However, police, within a short span of time, arrested the bail-petitioner and since then, he is behind bars. Person namely Saurav Patyal alias Fandi, in his statement recorded under Section 154 Cr.P.C, alleged that on 20.6.2024, while he had come to District Court Bilaspur for getting his evidence recorded, one person carrying country made pistol (hereinafter referred to as the "**Katta**") in his hand fired one gunshot, which did not hit him, however, he fired another gunshot which hit on right side of his back. He alleged that he threw a stone towards the person, who had fired at him, as a result thereof, he fled from the spot and thereafter, he was taken to the hospital by his friends namely Kulbhushan alias Lucky and Pankaj. He also alleged that subsequently, he came to know that person namely Sunny Gill, who is resident of Haryana, had fired gunshot at him. In the aforesaid



background, initially police registered case under Section 307 of IPC and Section 25 of the Arms Act against Sunny Gill i.e. petitioner herein, but subsequently on the basis of recording in the mobile phone, co-accused Puranjan Thakur and Malkiyat Singh @ Malli were arrested, who had allegedly engaged the bail-petitioner for killing the complainant at the instance of co-accused Puranjan Thakur. Co-accused Puranjan Thakur and Malktiyat Singh already stand enlarged on bail pursuant to orders 13.08.2024 and 08.11.2024 passed by this Court in Cr.MP(M) Nos.1595 and 2319 of 2024, whereas the bail-petitioner is behind bars. Since challan stands filed in the competent Court of law and nothing remains to be recovered from the bail petitioner, petitioner has approached this Court in the instant proceedings for grant of regular bail on the ground of inordinate delay in conclusion of trial.

4. Though after approximately two years of filing of the FIR, learned Court below has been able to frame charges, but till date, not even a single prosecution witness has been examined.

5. Mr. Rajan Kahol, learned Additional Advocate General, while fairly admitting factum with regard to filing of the challan in the competent court of law, states that though nothing remains to be recovered from the bail-petitioner and at present, he is in judicial custody, but keeping in view



the gravity of offence alleged to have been committed by him, he does not deserve any leniency. Mr. Kahol, states that otherwise also, bail-petitioner cannot claim parity with the co-accused Malkiyat Singh @ Malli and Puranjan Thakur, on account of his having fired gun-shot at the complainant. While referring to antecedents of the bail-petitioner, Mr. Kahol, states that in past, as many as three cases, out of which one case under Section 302 of Indian Penal Code already stand registered against the bail-petitioner in the State of Punjab. He further states that since bail-petitioner is a hardened criminal, there is every possibility of his fleeing from justice in the event of his being granting bail or he also may cause harm to the complainant, as such, prayer made on his behalf for bail deserves outright rejection.

6. Having heard the learned counsel representing the parties and perused material available on record, this Court is not persuaded to agree with Mr. Prashant Sharma, learned counsel for the petitioner that bail petitioner has been falsely implicated. Bare perusal of evidence adduced on record by the prosecution clearly reveals that though bail-petitioner, after his having fired gun-shot at the complainant, attempted to flee from the spot, but he was apprehended by the local persons and katta, from which he had fired gun-shot, was also recovered from his possession. Besides



above, police also recovered recording, wherein co-accused Puranjan Thakur, had asked the bail-petitioner to fire at the complainant and in turn, bail-petitioner, after his having failed to hit the complainant, informed aforesaid Puranjan Thakur that complainant had escaped. Though this Court is persuaded to agree with Mr. Rajan Kahol, learned Additional Advocate General, that there is overwhelming evidence against the bail-petitioner for his having allegedly committed offences punishable under Section 307 of IPC and Section 25 of the Arms Act, but having taken note of the fact that bail-petitioner is behind bars for approximately two years and till date, not even a single prosecution witness has been examined, this Court is persuaded to consider the prayer made on behalf of the bail-petitioner for grant of regular bail on account of inordinate delay in conclusion of trial, especially when two co-accused named hereinabove stand enlarged on bail.

7. Prosecution with a view to prove the guilt of the accused proposes to examine 75 prosecution witnesses, but till date not even a single witness has been examined, rather charge has been framed recently. Since considerable time is likely to be consumed in conclusion of trial, there appears to be no justification to let the bail-petitioner incarcerate in jail for indefinite period during trial, especially when he has already



suffered for approximately two years. There is nothing on record to suggest that on account of his having suffered injury, complainant is bed ridden, rather complainant has fully recovered and thereafter, he remained in jail for some time in connection with some other crime allegedly committed by him.

8. Though at this stage, Mr. Rajan Kahol, learned Additional Advocate General, vehemently argued that keeping in view the gravity of offence alleged to have been committed by the bail-petitioner, he does not deserve any leniency, but having taken note of the fact that bail-petitioner is behind bars for more than two years without his having been held guilty, coupled with the fact that speedy trial has been held to be the fundamental right of the accused, this Court sees no reason to left the bail-petitioner to incarcerate in jail for indefinite period during trial.

9. Though record suggests that in addition to the case at hand, three cases under Indian Penal Code stand registered against the bail-petitioner, but since guilt, if any, of the bail-petitioner in those cases is yet to be established on record by leading cogent and convincing evidence, it may not be in the interest of justice to deny bail to the bail-petitioner in the instant case on the basis of pendency of other criminal cases.



10. Reliance is placed upon judgment passed by Hon'ble Apex Court in **Tapas Kumar Palit v. State of Chhattisgarh, 2025 SCC OnLine SC 322**, wherein it has held that the accused has a right to an expeditious trial. Relevant para of the afore judgment is extracted hereinbelow:-

"10. However, many times we have made ourselves very clear that howsoever serious a crime may be, the accused has a fundamental right of speedy trial as enshrined in Article 21 of the Constitution."

11. Hon'ble Supreme Court in **Ayub Khan v. State of Rajasthan, 2024 SCC OnLine SC 3763: 2024:INSC:994** held that the criminal antecedents may not be a reason to deny bail to the accused in case of long incarceration. Relevant para of the afore judgment is extracted hereinbelow:-

"10. The presence of the antecedents of the accused is only one of the several considerations for deciding the prayer for bail made by him. In a given case, if the accused makes out a strong prima facie case, depending upon the fact situation and period of incarceration, the presence of antecedents may not be a ground to deny bail. There may be a case where a Court can grant bail only on the grounds of long incarceration. The presence of antecedents may not be relevant in such a case. In a given case, the Court may grant default bail. Again, the antecedents of the accused are irrelevant in such a case. Thus, depending upon the peculiar facts, the Court can grant bail notwithstanding the existence of the antecedents."



12. By now, it is well settled that speedy trial is fundamental right of the accused and one cannot be made to suffer indefinitely for delay in trial and as such, this Court sees no reason to keep the bail petitioner behind the bars for indefinite period during trial. Hon'ble Apex Court in case titled **Umarmia Alias Mamumia v. State of Gujarat**, (2017) 2 SCC 731, has held delay in criminal trial to be in violation of right guaranteed to an accused under Article 21 of the Constitution of India. Relevant para of the afore judgment reads as under:-

"11. This Court has consistently recognized the right of the accused for a speedy trial. Delay in criminal trial has been held to be in violation of the right guaranteed to an accused under Article 21 of the Constitution of India. (See: Supreme Court Legal Aid Committee v. Union of India, (1994) 6 SCC 731; Shaheen Welfare Assn. v. Union of India, (1996) 2 SCC 616) Accused, even in cases under TADA, have been released on bail on the ground that they have been in jail for a long period of time and there was no likelihood of the completion of the trial at the earliest. (See: Paramjit Singh v. State (NCT of Delhi), (1999) 9 SCC 252 and Babba v. State of Maharashtra, (2005) 11 SCC 569).

13. The Hon'ble Apex Court in case titled **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Another**, passed in Criminal Appeal No.2787 of 2024, decided on 03.07.2024, having taken note of its various judgments passed in the past, proceeded to conclude that if the State or any prosecuting agency including the court concerned has no



wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution, then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Most importantly, in the afore judgment, Hon'ble Apex Court has held that Article 21 of the Constitution applies irrespective of the nature of the crime. Relevant paras of the afore judgment read as under:

“15. The requirement of law as being envisaged under Section 19 of the National Investigation Agency Act, 2008 (hereinafter being referred to as “the 2008 Act”) mandates that the trial under the Act of any offence by a Special Court shall be held on day-to-day basis on all working days and have precedence over the trial of any other case and Special Courts are to be designated for such an offence by the Central Government in consultation with the Chief Justice of the High Court as contemplated under Section 11 of the 2008.

16. A three-Judge Bench of this Court in Union of India v. K.A. Najeeb reported in (2021) 3 SCC 713] had an occasion to consider the long incarceration and at the same time the effect of Section 43-D(5) of the UAP Act and observed as under : (SCC p. 722, para 17)

17. It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of the UAPA per se does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a statute as well as the powers exercisable under constitutional jurisdiction can be well harmonised. Whereas at commencement of proceedings, the courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of



incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safe-guard against the possibility of provisions like Section 43-D(5) of the UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.”

17. In the recent decision, *Satender Kumar Antil v. Central Bureau of Investigation* reported in (2022) 10 SCC 51, prolonged incarceration and inordinate delay engaged the attention of the court, which considered the correct approach towards bail, with respect to several enactments, including Section 37 NDPS Act. The court expressed the opinion that Section 436A (which requires inter alia the accused to be enlarged on bail if the trial is not concluded within specified periods) of the Criminal Procedure Code, 1973 would apply:

“We do not wish to deal with individual enactments as each special Act has got an objective behind it, followed by the rigour imposed. The general principle governing delay would apply to these categories also. To make it clear, the provision contained in Section 436-A of the Code would apply to the Special Acts also in the absence of any specific provision. For example, the rigour as provided under Section 37 of the NDPS Act would not come in the way in such a case as we are dealing with the liberty of a person. We do feel that more the rigour, the quicker the adjudication ought to be. After all, in these types of cases number of witnesses would be very less and there may not be any justification for prolonging the trial. Perhaps there is a need to comply with the directions of this Court to expedite the process and also a stricter compliance of Section 309 of the Code.”

18. *Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender*



commit the crime. Those factors may be social and economic, maybe, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

20. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be.

21. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.”

14. In the aforesaid judgments, Hon’ble Apex Court having taken note of all judgments passed in recent times, categorically held that bail is rule and jail is an exception. If all the judgments taken note herein above are read in conjunction, Hon’ble Apex Court has categorically held that court while considering prayer for grant of bail may not be impressed with the arguments advanced by the prosecution that charge against the person seeking bail is serious, but in case, Court finds that on account of



inordinate delay in conclusion of trial, fundamental right of speedy trial is being violated, it should proceed to grant bail.

15. Needless to say, object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. Otherwise also, normal rule is of bail and not jail. Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

16. Hon'ble Apex Court in Criminal Appeal No. 227/2018, **Dataram Singh vs. State of Uttar Pradesh & Anr** decided on 6.2.2018 has held that freedom of an individual cannot be curtailed for indefinite period, especially when his/her guilt is yet to be proved. It has been further held by the Hon'ble Apex Court in the aforesaid judgment that a person is believed to be innocent until found guilty.

17. Hon'ble Apex Court in **Sanjay Chandra versus Central Bureau of Investigation (2012)1 Supreme Court Cases 49** has held that gravity alone cannot be a decisive ground to deny bail, rather competing factors are



required to be balanced by the court while exercising its discretion. It has been repeatedly held by the Hon'ble Apex Court that object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative.

18. In **Manoranjana Sinh alias Gupta versus CBI, (2017) 5 SCC 218**, Hon'ble Apex Court has held that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise also, normal rule is of bail and not jail. Apart from above, Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment, which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

19. The Apex Court in **Prasanta Kumar Sarkar versus Ashis Chatterjee and another (2010) 14 SCC 496**, has laid down various principles to be kept in mind, while deciding petition for bail viz. prima facie case, nature and gravity of accusation, punishment involved, apprehension of repetition of offence and witnesses being influenced.



20. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, bail petitioner has carved out a case for grant of bail. Accordingly, the petition is allowed and the petitioner is ordered to be enlarged on bail in aforesaid FIR, subject to his furnishing personal bond in the sum of Rs. 2,00,000/- with two local sureties in the like amount to the satisfaction of concerned Chief Judicial Magistrate/trial Court, with following conditions:

- (a) He shall make himself available for the purpose of interrogation, if so required and regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;
- (b) He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;
- (c) He shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or the Police Officer; and
- (d) He shall not leave the territory of India without the prior permission of the Court.
- (e) He shall report to the Police Station concerned i.e. Sadar, District Bilaspur, Himachal Pradesh, once in a month.

21. It is clarified that if the petitioner misuses the liberty or violates any of the conditions imposed upon him, the investigating agency shall be free to move this Court for cancellation of the bail.

22. Any observations made hereinabove shall not be construed to be a reflection on the merits of the case and shall remain confined to the



disposal of this application alone. The petition stands accordingly disposed of.

23. The bail petitioner is permitted to produce copy of the order downloaded from the High Court Website and the trial court shall not insist for certified copy of the order, however, it may verify the order from the High Court website or otherwise.

(Sandeep Sharma)
Judge

April 23, 2026
(sunil)