

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MP(M) No. 1119 of 2026****Reserved on: 17.8.2026****Decided on: 19.8.2026**

Suraj Kumar**.... Petitioner****Versus****State of HP****.... Respondent**

Coram***Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting?¹ No.*****For the Petitioner : Ms Aanchal Sharma,
Advocate.****For the Respondent/State : Mr Prashant Sen, Deputy
Advocate General.**

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 209 of 2025 dated 22.12.2025, registered at Police Station Manali, District Kullu, H.P., for the commission of offences punishable under Sections 143 and 143(3) of Bharatiya Nyaya Sanhita (BNS) 2023 and Sections 4 and 5 of Immoral Trafficking Prevention Act, 1956.

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 police received information on 22.12.2025, at about 12.00 A.M., that some women were involved in immoral trafficking. The police reduced the information to writing and sent it to the Police Station. The police joined Sunita Sharma and Rohit Kumar as independent persons. Some police officials were sent as decoy customers. The police arrested some women, the petitioner and the co-accused. These allegations are false. The petitioner has remained behind bars since his arrest. The petitioner does not have any criminal antecedents. The police have filed the charge sheet before the Court, and no fruitful purpose would be served by detaining the petitioner in custody. 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 police received secret information on 22.12.2025 that some sex workers were operating at Mall Road and Bus Stand, Manali. Vishwa Dev and Suraj assisted them. Sandeep Kaur, Kavita Khan and Santosh were bringing girls on the pretext of getting them house-cleaning jobs. However, they were being forced into prostitution. The information was

credible. 4-5 officials were called in civil dress. Sunita Sharma, Vice President, M.C. Manali and Rohit Kumar were associated as independent witnesses. A rukka was prepared. ₹5000/- was taken out by the Inspector. ₹2500/- were handed over to C. Sunil Mahant, and ₹2500/- were handed over to C. Mohan. The details of these currency notes were reduced to writing. They were asked to visit the spot and procure the services of sex workers by paying money. They were also asked to inform the Inspector by missed call in case money was accepted. A missed call was made by C. Mohan at 1.40 am. The location was also shared. The police reached the spot and found 7 women and two men. The police apprehended them. They revealed their names as Santosh, Kavita Khan, Sandeep Kaur, R, A, F, S, Vishwa Dev and Suraj. R, A, F and S revealed that they were brought by Santosh, Kavita Khan and Sandeep Kaur with a promise to get them engaged as household help. However, they were forced into prostitution by Vishwa Dev and Suraj. Two currency notes of ₹500/-each were found in possession of Santosh, Sandeep, Kavita, Vishwa Dev, and Suraj. Their serial numbers tallied with the currency notes handed over by the Inspector. The police arrested Sandeep Kaur, Kavita Khan, Vishwa Dev and Suraj. The girls rescued by the police were

handed over to their relatives. The challan has been filed and is being checked by the Public Prosecutor. The petitioner had forced the innocent girls into prostitution. He would indulge in similar offences if released on bail. The matter is listed for recording the statements of prosecution witnesses on 18.9.2026. Hence, the status report.

4. I have heard Ms Anchal Sharma, learned counsel for the petitioner and Mr Prashant Sen, learned Deputy Advocate General for the respondent/State.

5. Ms Anchal Sharma, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. There is no material to connect the petitioner to the commission of the crime. She submitted that FIR No.14 of 2023 and FIR No. 116 of 2025 have been registered against the victims. There is a huge age gap between the petitioner and the victim, which makes it highly improbable that the petitioner had induced the victims to enter into prostitution. Therefore, she prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Prashant Sen, learned Deputy Advocate General, for the respondent-State submitted that the petitioner had brought the victims to Manali on the pretext of work and he forced them into Immoral trafficking. The petitioner is living on the earnings of prostitution, which is evident from the recovery of the marked currency note. The petitioner would indulge in the commission of a similar offence in case of his release on bail. Therefore, he prayed that the present petition be dismissed.

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

8. 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 benign 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)

9. 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 bail. So also, the heinousness of the crime....”

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

11. The rescued girls stated that Santosh, Sandeep Kaur, the petitioner Suraj and Kavita Khan had brought them on the pretext of getting the job of household help, but they were forced into prostitution. Section 5 of the Immoral Traffic (Prevention) Act, 1956, punishes a person who induces another to engage in prostitution. Therefore, the section deals with not only the forcible acts but the inducement as well. The rescued girls specifically stated that they were brought by the petitioner and other persons with an assurance to get them a job as household help, but they were pushed into prostitution. These statements *prima facie* satisfy the requirements of Section 5 of the Immoral Traffic (Prevention) Act, 1956 and Section 143 of BNS.

12. It was submitted that all the girls were majors and they could not have been forced into immoral trafficking. This submission will not help the petitioner. It was also submitted that there is a huge age gap between the petitioner and the victim. These submissions will not help the petitioner. Section 5 deals with the inducement to carry out prostitution. Thus, if a person is merely induced, even on the assurance of payment of money, the section would be attracted. Therefore, even if girls were carrying out the activities with their consent, but based on the inducement provided by the petitioner, the offence would be made out. The age gap between the petitioner and the victims cannot rule out the possibility of the inducement by the petitioner.

13. It was laid down by this Court in *Arun Thakur vs State* 2021 Cr. L. J. 4658 that a person introducing women into the flesh trade is a pervert and a threat to society who does not deserve any bail. It was observed:

12. Those who, by deceit, introduce adolescents or women into the flesh trade, the pimps bringing customers to seduce, and the customers who, despite realising lack of will and consent from the victims' body language, gestures, trauma, and fear, continue to satisfy their lust,

are perverts, threats to society, and do not deserve any bail.

14. It was rightly submitted on behalf of the State that the petitioner indulged in the commission of a heinous offence. Inducing a person to become a sex worker for getting money is the worst degradation of humanity and objectifies the human body. Releasing the petitioner on bail would encourage other persons to do so and would harm society. The apprehension of the State cannot be ruled out at this stage that the petitioner may indulge in the commission of a similar offence if he is released on bail. Trial has not yet commenced, and girls would be unable to make a free and fair disclosure by the petitioner's release. Therefore, in these circumstances, the petitioner cannot be released on bail to ensure a fair trial.

15. It was submitted that FIRs have been registered against the victims for the commission of offences punishable under the NDPS Act. This submission will not help the petitioner, because the registration of the FIRs against the victims will not mean that their statements are not believable. Thus, no advantage can be derived from the FIRs registered against the victims.

16. An offence under Section 143(3) is punishable with life imprisonment. The offence is heinous, and the punishment is severe. It was laid down by the Hon'ble Supreme Court in *Gudikanti Narasimhulu v. Public Prosecutor, High Court of A.P.*, (1978) 1 SCC 240: 1978 SCC (Cri) 115: 1977 SCC OnLine SC 327 that when the punishment is severe, the person is not entitled to bail. It was observed at page 244:

“6. Let us have a glance at the pros and cons and the true principle around which other relevant factors must revolve. When the case is finally disposed of, and a person is sentenced to incarceration, things stand on a different footing. We are concerned with the penultimate stage, and the principal rule to guide release on bail should be to secure the presence of the applicant who seeks to be liberated, to take judgment and serve a sentence in the event of the Court punishing him with imprisonment. In this perspective, the relevance of considerations is regulated by their nexus with the likely absence of the applicant for fear of a severe sentence, if such be plausible in the case. As Erle. J. indicated that when the crime charged (of which a conviction has been sustained) is of the highest magnitude and the punishment for it assigned by law is of extreme severity, the Court may reasonably presume, some evidence warranting, that no amount of bail would secure the presence of the convict at the stage of judgment, should he be enlarged. [*Mod. Law Rev. p. 50 ibid.*, 1852 I E & B 1] Lord Campbell, C.J., concurred in this approach in that case, and Coleridge J. set down the order of priorities as follows: [*Mod. Law Rev. ibid.*, pp. 50–51]

“I do not think that an accused party is detained in custody because of his guilt, but because there are sufficient probable grounds for the charge against

him as to make it proper that he should be tried, and because the detention is necessary to ensure his appearance at trial It is a very important element in considering whether the party, if admitted to bail, would appear to take his trial; and I think that in coming to a determination on that point, three elements will generally be found the most important: the charge, the nature of the evidence by which it is supported, and the punishment to which the party would be liable if convicted. In the present case, the charge is that of wilful murder; the evidence contains an admission by the prisoners of the truth of the charge, and the punishment of the offence is, by law, death.”

7. It is thus obvious that the nature of the charge is the vital factor, and the nature of the evidence also is pertinent. The punishment to which the party may be liable, if convicted or conviction is confirmed, also bears upon the issue.

17. Therefore, the petitioner is not entitled to bail considering the nature of the offence and severity of the punishment.

18. It was submitted that the petitioner has remained in custody for about 8 months and the trial has not been concluded. Hence, the petitioner is entitled to bail. This submission cannot be accepted. The police requires sometime to investigate the matter. Some time is also required thereafter to complete the formalities before recording the statements of the witnesses. Hence, the time of eight months cannot be said to be excessive.

The petitioner has also not filed the charge sheet to demonstrate that there is any delay on the part of the prosecution. The matter is listed for recording the statements of the witnesses on 18.09.2026, and the petitioner cannot be held entitled to bail because of the delay.

19. No other point was urged.

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

21. The observation made hereinbefore shall remain confined to the disposal of the present petitions and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

19th August, 2026
(Chander)