

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MP(M) No. 1116 of 2026****Date of Decision: 06.08.2026**

Prakash Chand**...Petitioner****Versus****State of Himachal Pradesh****...Respondent**

Coram***Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting?¹ No.*****For the Petitioner : Mr N.S. Chandel, Senior Advocate
with Ms Kanika Verma, Advocate.****For the Respondent : Mr Prashant Sen, Deputy Advocate
General.**

Rakesh Kainthla, Judge (Oral)

The petitioner has filed the present petition for seeking regular bail in FIR No.74 of 2024, dated 21.07.2024, registered for the commission of offences punishable under Sections 103 and 115(2) read with Section 3(5) of Bharatiya Nyaya Sanhita (BNS), 2023, at Police Station Talai, District Bilaspur, H.P.

2. It has been asserted that as per the prosecution, Roshani Devi (since deceased) and her daughter Veena, Bhutto Devi and informant Jeewan were carrying out the cleaning work

on 20.07.2024, at about 05.00 p.m. The accused pelted stones at them, one of which hit the deceased and her daughters. The son of the accused reached the spot with an iron rod and inflicted a blow on the head of the deceased. She was taken to CHC Barthi, where she was declared brought dead. The police registered the FIR and investigated the matter. The petitioner is innocent, and he was falsely implicated. The petitioner is a permanent resident of district Bilaspur, H.P. He belongs to a respectable family, and there is no likelihood of his fleeing from justice. He is the sole earner of the family, and his detention is causing hardship to his family members. The police have completed the investigation and filed the charge sheet before the Court. No recovery is to be effected from the petitioner, and no fruitful purpose would be served by detaining the petitioner in custody. 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 Jeevan Kumar, his wife Veena Devi, his sister-in-law Bhutto Devi and mother-in-law Roshni Devi were carrying out the cleaning work on 20.07.2024. Prakash

Chand (present petitioner) came to the spot at about 05-05.15 p.m. and started pelting stones. One stone hit the right leg of Veena Devi. Bhutto Devi and Roshni Devi also sustained injuries from stones. They started shouting for help. Dalip Singh came to the spot armed with an iron rod and inflicted a blow on the head of Roshani Devi, who became unconscious and fell. The informant carried the injured to the hospital. The doctor declared Roshani Devi to be brought dead. The matter was reported to the police, and the police registered the FIR. The police carried out the investigation and seized various samples from the spot. As per the report of analysis, blood was detected on the shirt, salwar and dupatta of Roshani Devi, the kurta, T-shirt, shirt and pyjama of the petitioner and the stick. Blood was not detected on the metallic pipe lifted from the spot. The informant and the accused had civil litigation pending between them. The charge sheet was filed before the Court. Nineteen witnesses have been cited by the prosecution, out of whom twelve witnesses have been examined, and seven witnesses are yet to be examined. The matter is listed before the learned trial Court on 31.08.2026. Hence, the status report.

4. I have heard Mr N.S. Chandel, learned Senior Advocate assisted by Ms Kanika Verma, learned counsel for the petitioner and Mr Prashant Sen, learned Deputy Advocate General, for the respondent/State.

5. Mr N.S. Chandel, learned Senior Advocate for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. As per the prosecution case, the injury was inflicted by Dalip Singh and not by the petitioner. Blood was not found on the metallic pipe stated to have been used by Dalip Singh; rather, the blood was found on the stick recovered from the spot. The petitioner has remained in custody for more than two years, and the prosecution has not completed the evidence. The petitioner's right to speedy trial is being violated. Therefore, he 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 is involved in the commission of a heinous offence, which is punishable with life imprisonment or death. The offence is heinous and severely punishable, and the petitioner should not be released on bail. The

trial is progressing normally and statements of twelve witnesses, out of nineteen witnesses cited by the prosecution, have been recorded, and the matter is listed on 31.08.2026 for recording the prosecution evidence. The petitioner would influence the witnesses in case of his release on bail. 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. 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)*

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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 jail. 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 status report mentioned that the petitioner had pelted stones, one of which had hit Roshani Devi; however, the cause of death was not the injury caused by the stone, but lacerated wound over the right side of the scalp in temporoparietal region.

12. The status report also mentions that Dalip came to the spot armed with a metallic pipe and inflicted a blow on the head of Roshni Devi; however, the report of analysis did not find any blood on the metallic pipe, but the blood was found on the stick recovered from the spot. No person has deposed about the use of a stick by any person. Therefore, *prima facie*, the report of analysis does not support the ocular version regarding the incident.

13. The petitioner is stated to have pelted stones upon the deceased and other persons. Dalip Singh suddenly came to the spot armed with an iron rod and inflicted injury on the head of Roshani Devi. There is no evidence that the petitioner had shared any

common intention with Dalip Singh and the act of Dalip Singh of coming to the spot was independent of the petitioner's act of pelting stones. The petitioner's act had not contributed in any manner to the act done by Dalip Singh. Therefore, *prima facie*, it is doubtful that the provisions of Section 3(5) of BNS can be applied to the present case.

14. It was submitted that the petitioner's clothes were stained with blood and no explanation has been provided for the blood stains. This submission will not help the prosecution. The petitioner has not disputed his presence on the spot. Therefore, the presence of blood stains on the clothes will not show that the petitioner had caused the death of Roshani Devi, and no advantage can be derived from the blood stains.

15. The status report shows that the petitioner was arrested on 22.07.2024. More than two years have elapsed since then. The prosecution has cited nineteen witnesses in the main challan, out of which twelve witnesses have been examined, and seven are yet to be examined. The prosecution also filed a supplementary charge-sheet in which fifteen witnesses have been mentioned, out of which five witnesses have been examined, and

ten witnesses are still to be examined. Thus, the trial is not likely to conclude soon as per the status report.

16. Considering the totality of the circumstances, the further detention of the petitioner is not justified. Hence, the present petition is allowed, and the petitioner is ordered to be released on bail, subject to his furnishing personal bond 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.

19. A copy of this order be sent to the Jail Superintendent, District and Open-Air Jail, Bilaspur, H.P. and the learned Trial Court by *FASTER*.

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

6th August, 2026.
(Ravinder)

(Rakesh Kainthla)
Judge.