

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MP(M) No. 2175 of 2025****Reserved on: 19.11.2025****Date of Decision: 24.11.2025.**

Sahil Kumar**...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 Ajay Kochhar, Senior Advocate,
with Mr Anubhav Chopra, Advocate.****For the Respondent : Mr Lokender Kutlehria, Additional
Advocate General.****For the Victim : Mr Udit Shaurya, Legal Aid Counsel.**

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking regular bail in FIR No. 21 of 2025, dated 04.03.2025, registered at Police Station Rohru, District Shimla, H.P., for the commission of offences punishable under Sections 61, 69, and 351(3) of Bhartiya Nayaya Sanhita, 2023 (BNS).

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 informant met the petitioner at Pavilion Hotel, Rohru, District Shimla, H.P., where he established physical relations with her. The petitioner started visiting the victim's room, and he used to maintain physical relations with her. He promised to marry her. When the victim asked the petitioner to marry her, he avoided the matter on one pretext or the other. The petitioner got engaged somewhere else. She approached the police at the Rohru Police Station. The police called the petitioner, and his parents took the victim to their home. However, they misbehaved with the victim and tried to throw her out of their home. The matter was again reported to the police, and a compromise was effected between the parties. The victim and the petitioner began residing together and solemnised a Court marriage on 16 December 2024. They also executed affidavits to this effect. The victim found that the affidavit was not a valid proof of marriage. She went to the Gram Panchayat to get her name reflected as the petitioner's wife. However, the petitioner did not appear before the Gram Panchayat. The matter was reported to the police, and an FIR was registered. The allegations in the FIR are false. The victim herself stated that she had solemnised the marriage with the petitioner

as per Hindu Rites and Customs. Thus, no case for entering into a physical relationship on the false pretext of marriage is made out. The victim had compromised the matter twice and stated that she did not want to take any action against the petitioner. The police have completed the investigation and filed the charge sheet before the Court. 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 a filing status report stating that the victim was married. Her husband passed away, and she began working in Rohru. She met the petitioner in November 2021 at Pavilion Hotel, Rohru, where the petitioner had physical relations with her. The petitioner would regularly visit the victim and maintain physical relations with her. Later, she discovered that the petitioner was engaged elsewhere. She reported the matter to the police, and the issue was resolved. The petitioner and her family took her to their home, but she was forced to leave. The matter was reported to the police again, and it was reconciled. The petitioner then started living with her at her home. They solemnised a court marriage on 16.12.2024 and exchanged affidavits confirming this. When she went to get the

marriage registered, she was told that an affidavit is not valid proof of marriage. The petitioner's brother asked the victim to leave the petitioner and settle elsewhere. The police registered an FIR, investigated the case, and recorded her statement under Section 180 (BNSS). The medical examinations of the victim and the petitioner were conducted, and their samples were preserved. The Hotel Pavilion records were seized. The samples were sent to the laboratory, and the results were negative for blood and semen, so no DNA analysis was done. The petitioner has committed a serious offence. A charge sheet has been filed. Hence, the status report.

4. The notice of the petition was issued to the victim who filed objections/reply reproducing the contents of the FIR. She asserted that the petitioner had not acknowledged her to be his legally wedded wife. The petitioner and his family members threatened the victim to kill her. They also tortured her in their home. The petitioner would influence the witnesses, and the victim would be forced to withdraw the complaint if the petitioner is released on bail; hence, it was prayed that the present petition be dismissed.

5. I have heard Mr Ajay Kochhar, learned Senior Advocate, with Mr Anubhav Chopra, learned Advocate, for the petitioner, Mr Lokender Kutlehria, learned Additional Advocate General, for the respondent/State and Mr Udit Shaurya, learned Legal Aid Counsel for the victim.

6. Mr Ajay Kochhar, learned Senior Advocate for the petitioner, submitted that the bare reading of the FIR does not make out any case against the petitioner. The victim has executed an affidavit acknowledging that she had solemnised a marriage with the petitioner; therefore, her grievance that a false promise of marriage was made is not correct. The mere difference between the petitioner and the victim after the marriage would not make out a case for the commission of an offence punishable under Section 69 of BNS. The police have filed the charge sheet, and the investigation is complete. No fruitful purpose would be served by detaining the petitioner in custody. Hence, he prayed that the present petition be allowed and the petitioner be released on bail.

7. Mr Lokender Kutlehria, learned Additional Advocate General, for the respondent/State, submitted that the petitioner had made a false promise to marry the victim and maintained a

physical relationship with her. He is not acknowledging the victim to his wife and entering her name in the Gram Panchayat. The petitioner would influence the witnesses if released on bail. Therefore, he prayed that the present petition be dismissed.

8. Mr Udit Shaurya, learned Legal Aid Counsel for the victim, adopted the submissions of Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State and submitted that the petitioner is involved in the commission of a heinous crime. He would intimidate the victim and the witnesses if released on bail. Therefore, he prayed that the present petition be dismissed.

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

10. 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 so as 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)

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

12. A perusal of the FIR shows that the parties had solemnized a Court marriage on 16.12.2024 and exchanged their affidavits regarding the marriage. The affidavit of the victim

(Ext.P2) reads that the victim had a solemnised marriage on 16.12.2024, and the affidavit was executed regarding this fact. Similarly, the petitioner executed an affidavit Annexure (P3) in which he acknowledged that he had accepted the victim as his legally wedded wife and had solemnised the marriage as per Hindu Rites and Customs. *Prima facie*, the affidavits of the parties establish that they have executed a marriage, and the prosecution's case that the petitioner had made a false promise to marry the victim is *prima facie* not correct.

13. It was submitted on behalf of the State that the marriage cannot be solemnised by exchanging the affidavit, and the marriage has to be solemnised as per Hindu Rites and Customs. There is no proof that the marriage was solemnised as per Hindu Rites and Customs. Therefore, the plea that parties are validly married to each other is not correct. This submission will not help the State. Once the parties state on oath in their affidavits that they had solemnised the marriage as per Hindu Rites and Customs, it has to be believed that they have done so. There is nothing on record to show that affidavits are false. Hence, the submission that parties are not validly married cannot be accepted.

14. It was submitted that the petitioner is not acknowledging the victim as his wife, and he is not getting her name recorded as his legally wedded wife. This submission will also not help the State. This is a civil dispute and has nothing to do with the commission of crime. The victim asserted that the petitioner falsely promised to marry her and had entered into a physical relationship with her. This averment is not correct because, as per the own admission of the victim, the petitioner has married her. Hence, *prima facie*, the ingredients of the commission of an offence punishable under Section 69 of BNS are not made out.

15. It was submitted that the petitioner would intimidate the witnesses in case of his release on bail. This is merely an apprehension which is insufficient to detain the petitioner in custody. This apprehension can be removed by imposing conditions, and the State/victim would be free to approach the Court in case of the breach of the condition imposed by the Court.

16. The petitioner asserted that he is a permanent resident of District Shimla, which was not stated to be incorrect.

Thus, the petitioner has roots in society, and there are no chances of his absconding.

17. The petitioner stated that he is a first-time offender, which was confirmed in the status report, wherein it was specifically mentioned that no other case was registered against him.

18. The status report shows that the charge sheet has been filed before the Court; thus, the investigation is completed. The status report does not show any reason for the pre-trial detention of the petitioner, hence the plea of the petitioner that pre-trial detention is not justified is accepted as correct.

19. 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 two sureties in the like amount to the satisfaction of the learned Trial Court. The petitioner, while on bail, will abide by the following terms and conditions:-

- (i) The petitioner will join the investigation as and when directed to do so through a written *hukamnama*.
- (ii) The petitioner will not intimidate the witnesses nor will he influence any evidence in any manner whatsoever.

- (iii) The petitioner shall attend the trial in case a charge sheet is presented against him and will not seek unnecessary adjournments.
- (iv) The petitioner will not leave the present address for a continuous period of seven days without furnishing the address of intending a visit to the SHO, the Police Station concerned and the Trial Court.
- (v) The petitioner will surrender his passport, if any, to the Court; and
- (vi) 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.

20. 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.

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

22. The petition stands accordingly disposed of. A copy of this order be sent to the Superintendent, Sub Jail Kaithu, District Shimla, H.P. and the learned Trial Court by FASTER.

23. A downloaded copy of this order shall be accepted by the learned Trial Court while accepting the bail bonds from the

petitioner, and in case said Court intends to ascertain the veracity of the downloaded copy of the order presented to it, the same may be ascertained from the official website of this Court.

(Rakesh Kainthla)
Judge

24th November, 2025
(Nikita)

CHANDER
SHEKHAR

Digitally signed by
CHANDER SHEKHAR
Date: 2025.11.24
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