



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 2205 of 2025

Reserved on: 08.10.2025

Date of Decision: 17.10.2025.

Yaseen

...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.K. Thakur, Senior Advocate,
with M/s Ritu Singh, Divya Raj
Singh and Karanveer Singh,
Advocates.

For the Respondent : Mr Jitender Sharma, Additional
Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking regular bail in FIR No. 16/2025, dated 16.03.2025, registered at Police Station Kihar, District Chamba, H.P., for the commission of offences punishable under Section 105 and 352 of Bhartiya Nyaya Sanhita (BNS), 2023.

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

2. It has been asserted that the informant made a complaint to the police that the informant and his cousin (since deceased) had gone to play cricket. The match stopped due to rain. The rain stopped at about 4:30 pm, and the petitioner, Yaseen, asked Kyum to start the match at 4:30 PM. Kyum (since deceased) replied that the match could not be started as he was to break the fast (Roja). An altercation ensued between the petitioner and Kyum. The informant tried to pacify the parties, but the accused inflicted a blow to Kyum with a bat on his face. Kyum fell, and the petitioner fled away from the spot. Kyum was carried to the hospital, where he was declared dead. The contents of the FIR show that the incident occurred without any premeditation and without any intention. The petitioner and the deceased were good friends, and they were playing a match earlier. The police have filed the charge sheet before the Court, and nothing is to be recovered from the petitioner. The petitioner would abide by the terms and conditions which the Court may impose. Hence the petition.

3. The petition is opposed by filing a status report, asserting that the informant made a complaint to the police that a

cricket match was being organised on 16.03.2025. Kyum (since deceased) was one of the players. The match was stopped due to the rain. The rain stopped at about 4:30 pm, and the petitioner and Tashik told the other people to resume the play. Kyum stated that he would not play because he had to break the fast (Roja). He started going towards his home. The petitioner asked him to complete the match. This led to an altercation between the petitioner and Kyum. The informant tried to pacify the parties, but the petitioner abused Kyum. He inflicted a blow with a bat on Kyum's face. Kyum fell. His face started bleeding. He was carried to the hospital, where he was declared dead. The police arrested the petitioner and investigated the matter. As per the report of the analysis, the DNA profile obtained from the petitioner's jacket, the lower and T-shirt of the deceased, soil and grass lifted from the spot, and the cricket bat matched the DNA profile obtained from the blood of the deceased. A mixed DNA profile was obtained from the petitioner's T-shirt, and one component matched the DNA profile of the deceased. The investigation is continuing, and the petitioner would intimidate the witnesses in

case of his release on bail. Hence, it was prayed that the present petition be dismissed.

4. I have heard Mr N.K. Thakur, learned Senior Advocate with M/s Ritu Singh, Divya Raj Singh and Karanveer Singh, Advocates for the petitioner and Mr Jitender Sharma, learned Additional Advocate General for the respondent/State.

5. Mr N.K. Thakur, learned Senior Advocate, for the petitioner, submitted that the petitioner is innocent and he was falsely implicated in the present case. The prosecution's case shows that the petitioner had inflicted a single injury by means of a bat to Kyum without any premeditation. Hence, the allegations in the FIR are insufficient to attract the provisions of Section 105 of the Bhartiya Nyaya Sanhita (BNS). The police have completed the investigation, and 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.

6. Mr Jitender Sharma, learned Additional Advocate General, for the respondent/State, submitted that the petitioner had inflicted a blow by means of a bat on Kyum's face, and knowledge can be attributed to him that the injury would cause

the death of Kyum. Therefore, 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 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 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 placement of the accused in the society, though it may be considered by itself, cannot be a guiding factor in the matter of grant of bail, and 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)

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

10. The status report shows that the petitioner inflicted a blow by means of a bat on Kyum’s face, which led to his death. The blood of the deceased was found on the petitioner’s cloth and the bat held by him. Therefore, *prima facie*, the allegations in the FIR show the involvement of the petitioner in the commission of crime.

11. The petitioner used a bat to inflict injury on Kyum’s face to cause him injury. The face is a vital part, and the injury to the face led to the death of Kyum. Infliction of an injury by means of a bat on the face of a person suggests an intention to cause bodily injury as is likely to cause death. Therefore, *prima facie*, the ingredients of the commission of an offence punishable under

Section 105 of BNS are satisfied. The offence is heinous and punishable with life imprisonment. The investigation is continuing, and a charge sheet has not been filed before the Court; therefore, the petitioner cannot be released on bail at this stage, considering the nature and gravity of the offence and the severity of punishment provided for it.

12. In view of the above, the petitioner is not entitled to bail; consequently, the present petition fails and the same is dismissed.

13. The observations made here-in-above are regarding the disposal of this petition and will have no bearing, whatsoever, on the case's merits.

(Rakesh Kainthla)
Judge

17th October, 2025.
(Nikita)