

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MP(M) No.2356 of 2025

Decided on : November 25, 2025.

Suresh KumarPetitioner
(Presently confined in District Jail, Una)

Versus

State of H.P.Respondent

Coram:

The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Whether approved for reporting?

For the Petitioner : M/s Sheetal Vyas, Jai Prabha and
Tejasvi, Advocates.

For the Respondent : Mr. Raj Negi, Deputy Advocate
General.

Vivek Singh Thakur, Judge.

Petitioner has approached this Court, seeking regular bail under Section 483 of Bhartiya Nagarik Suraksha Sanhita in FIR No.215 of 2020, dated 6.9.2020, registered in Police Station Haroli, District Una, H.P., under Sections 302 and 323 read with Section 34 IPC.

2. Status report stands filed and record was also made available.

3. In the status report, statement of complainant Ashwani Kumar, recorded under Section 154 Cr.P.C., has been reproduced and according to the said statement, complainant-Ashwani Kumar is Panchayat Pradhan, who is

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having land dispute with Harjot Singh (co-accused) and his family, but correction of revenue record has not been effected yet and on the disputed land, IPH Department has been constructing irrigation water tank outlets through Contractor. On 06.09.2020, on a call of IPH Contractor, complainant had reached the spot at 9.15 a.m., where Naresh Kumar (co-accused) of IPH Department was also present alongwith Contractor, and Suresh Kumar (petitioner) and Mukesh Kumar (co-accused) sons of accused Harjot Singh alongwith their father were also present. Complainant had objected construction of cement tank for water outlet on the disputed land with a request to construct the same later on, but on this, Naresh Kumar/co-accused overpowered the complainant and Harjot Singh and his sons Suresh Kumar and Mukesh Kumar (co-accused) had started beating complainant with wooden sticks, kicks and fist blows and at that time, Ashwani Kumar (deceased) son of Desh Raj had tried to intervene to stop quarrel. Whereupon, Harjot Singh accused had directed his son Suresh Kumar (petitioner) to bring the gun to kill Ashwani Kumar son of Desh Raj by saying that the said Ashwani Kumar was root cause of the quarrel and thereupon, Suresh Kumar brought the gun and fired a gunshot on the chest of Ashwani Kumar son of Desh Raj and thereafter all accused except Suresh Kumar ran

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away from the spot. Injured Ashwani Kumar had asked complainant-Ashwani Kumar to run away from the spot as he had received bullet injury. At that time, Suresh Kumar remained on the spot for about 10-15 minutes and when villagers started gathering on the spot, Suresh Kumar also ran away from the spot. Injured Ashwani Kumar was shifted by complainant in his vehicle with the help of his sons Chetan, Rajender and Raj Kumar to the Government Hospital for treatment, but he had succumbed to injuries on way to the hospital.

4. Lastly, it is stated that this entire plan had already been conspired by all four accused.

5. As per status report, on the basis of statement of complainant, FIR was registered and investigation was carried on. Besides postmortem of deceased Ashwani Kumar, complainant Pradhan Ashwani Kumar was also subjected to medical examination and as per final report, Medical Officer on his MLC has opined that injuries received by complainant Pradhan Ashwani Kumar were simple and blunt.

6. Petitioner had also approached the trial Court/ Additional Sessions Judge-1, Una, District Una, Himachal Pradesh, for enlarging him on bail by filing Bail Application No.282 of 2025, which was dismissed on 2.9.2025.

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7. It has been submitted that now the petitioner is praying for grant of bail to him on the ground of delay in trial as petitioner was arrested about 5 years 2 month ago and till date, and, as per Status Report, out of 64 witnesses, only 51 witnesses have been examined and 13 witnesses are yet to be examined. It has been further submitted that pace of trial is very slow as evident from the fact that 5 witnesses were summoned by the Trial Court to be examined on 4.6.2025 and 5.6.2025. However, out of them, only one witness was examined on 4.6.2025, whereas, on 5.6.2025, no witness was present and the trial was adjourned for 7.8.2025. On 7.8.2025, only one witness was present and he was examined and, thereafter, matter was listed for prosecution evidence on 25.10.2025 and 27.10.2025 by summoning three witnesses each on both dates. However, on 25.10.2025 and 27.10.2025, no prosecution witness was present and, thereafter, two witnesses each have been summoned for 27.12.2025 and 29.12.2025, and even if all these four witnesses are examined on next date, even then 9 witnesses would remain to be examined and in view of the pace of trial, as also reflected supra, it may take considerable long time to record the entire prosecution evidence and there is no likelihood of completion of trial in near future.

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8. In aforesaid circumstances, learned counsel for petitioner submits that it is a fit case for enlarging the petitioner on bail.

9. Learned counsel for the petitioner has submitted that petitioner is behind the bars since last more than 5 years and 2 months and despite being undertrial prisoner, statements of witnesses have not been recorded and now case has been listed on 27.12.2025 and 29.12.2025 and keeping in view the pace of the trial, there is no likelihood of completion of trial in near future. It has been further submitted that there is no role of the petitioner in delaying the trial and, therefore, he is entitled for bail.

10. To substantiate plea to enlarge the petitioner on bail, learned counsel for the petitioner has relied upon order dated 5.7.2023 passed in **Cr.MP (M) No. 1501 of 2023**, titled as **Ram Singh @ Kaka Vs. State of H.P.**, wherein accused under Section 302 IPC has been enlarged on bail on 5.7.2023 after remaining in jail for 3 years 2 months.

11. Learned counsel for the petitioner has also referred order dated 16.9.2023 passed in **Cr.M.P. (M) No. 1494 of 2023**, titled as **Rampal @ Ramphal Vs. State of H.P.**, wherein accused under Section 302 IPC has been enlarged on bail after remaining in custody for 4 years 9 months by considering plea of the petitioner regarding delay in trial.

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12. Learned counsel for the petitioner has referred order dated 20.10.2023 passed in **Cr.M.P. (M) No. 2481 of 2023**, titled as **Sanma Vs. State of H.P.**, wherein accused under Section 302 IPC has been released on bail after 3 years 3 months detention considering the fact that only 22 witnesses out of 30 witnesses were examined by that time.

13. Learned counsel for the petitioner has further relied on order dated 4.11.2023 passed in **Cr.M.P. (M) No. 2618 of 2023**, titled as **Jasbir Singh Vs. State of H.P.**, wherein accused under Section 302 IPC has been released on bail after 3 years 5 months detention considering the fact that only 16 witnesses out of 39 witnesses were examined by that time.

14. Learned counsel for the petitioner has further relied on order dated 6.10.2023 passed in **Cr.M.P. (M) No. 2461 of 2023**, titled as **Balwinder Singh @ Kadu Vs. State of H.P.**, wherein accused under Section 302 IPC has been released on bail after 3 years 1 month detention considering the fact that only 12 witnesses out of 34 witnesses were examined by that time.

15. Learned counsel for the petitioner has further referred order dated 21.8.2023 passed in **Cr.M.P. (M) No. 1942 of 2023**, titled as **Robin Patwal Vs. State of H.P.**, wherein accused under Section 302 IPC has been released on bail after 2 years 2 months detention considering the fact

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that only 10 witnesses out of 51 witnesses were examined by that time.

16. Learned counsel for the petitioner has further referred order dated 1.9.2023 passed in **Cr.M.P. (M) No. 1216 of 2023**, titled as **Rakesh Kumar Vs. State of H.P.**, wherein accused under Section 302 IPC has been released on bail after 4 years detention considering the fact that only 13 witnesses out of 47 witnesses were examined by that time.

17. Learned counsel for the petitioner has further relied on order dated 24.7.2023 passed in **Cr.M.P. (M) No. 1217 of 2023**, titled as **Kulveer Singh Vs. State of H.P.**, wherein accused under Section 302 IPC has been released on bail after 1 year detention considering the fact that no witnesses out of 30 witnesses were examined by that time.

18. Learned counsel for the petitioner has further relied on order dated 3.8.2023 passed in **Cr.M.P. (M) No. 1631 of 2023**, titled as **Mahammad Aadil Vs. State of H.P.**, wherein accused under Section 302 IPC has been released on bail after 2 years 5 months detention considering the fact that only 1 witness out of 50 witnesses were examined by that time.

19. Learned counsel for the petitioner has also referred judgment rendered by the Supreme Court in **Special Leave to Appeal No. 1627 of 2022**, titled as **Indrani Pratim Mukerjea Vs.**

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Central Bureau of Investigation, wherein accused under Section 302 IPC has been released on bail after 6½ years.

20. Reliance has also been placed upon order dated 15.2.2023 passed by the Supreme Court in **Special Leave to Appeal (Crl.) No. 11714 of 2022**, titled as **Mukesh Kumar Vs. The State of Rajasthan & another**, whereby an accused under Section 302 IPC was released on bail, after custody of 15 months, in case FIR No. 164 of 2020, dated 8.6.2020 registered under Section 307 IPC, but converted into Section 302 IPC on account of death of injured person on account of injuries caused in the incident of free fight, wherein cross FIRs were registered by and on behalf of both sides.

21. Further reliance has been placed on order dated 28.6.2023 passed in **Cr.M.P. (M) No. 1326 of 2023**, titled as **Daljeet Rana alias Kaka Vs. State of H.P.**, wherein co-accused in murder case was enlarged on bail after 1 year 6 months in case FIR registered for causing death by gun bullet fired by another co-accused.

22. Reliance has also been placed on order dated 29.8.2023 passed in **Cr.M.P. (M) No. 2085 of 2023**, **Ghanshyam Vs. State of H.P.**; order dated 13.10.2023, passed in **Cr.M.P. (M) No. 2540 of 2023**, titled as **Subhadra Kumari Vs. State of H.P.**; and order dated 18.10.2023 passed in **Cr.M.P. (M) No. 2606 of 2023**, titled as **Lata Devi Vs. State of H.P.**, in

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case of common FIR, wherein husband of Lata Devi had expired for receiving injuries in a quarrel taken place in the family and deceased was under influence of intoxication.

23. Learned counsel for the petitioner has placed reliance upon judgment passed by the Supreme Court in **Shaheen Welfare Assn. Vs. Union of India, (1996) 2 SCC 616: 1996 SCC (Cr.) 366**, wherein it has been held that a person cannot be kept behind bars when there is no prospect of trial being concluded expeditiously with following observation:-

“8. It is in this context that it has become necessary to grant some relief to those persons who have been deprived of their personal liberty for a considerable length of time without any prospect of the trial being concluded in the near future. Undoubtedly, the safety of the community and the nation needs to be safeguarded looking to the nature of the offences these undertrials have been charged with. But the ultimate justification for such deprivation of liberty pending trial can only be their being found guilty of the offences for which they have been charged. If such a finding is not likely to be arrived at within a reasonable time some relief becomes necessary.”

24. Learned counsel for the petitioner has placed reliance upon judgment of the Supreme Court in **Jagjeet Singh vs. Ashish Mishra, (2022) 9 SCC 321: (2022) 3 SCC (Cri) 560: 2022 SCC OnLine SC 453**, wherein it has been observed that no accused can be subjected to unending detention pending trial. Reference to following para has been emphasized:-

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“40. Having held so, we cannot be oblivious to what has been urged on behalf of the respondent-accused that cancellation of bail by this Court is likely to be construed as an indefinite foreclosure of his right to seek bail. It is not necessary to dwell upon the wealth of case law which, regardless of the stringent provisions in a penal law or the gravity of the offence, has time and again recognised the legitimacy of seeking liberty from incarceration. To put it differently, no accused can be subjected to unending detention pending trial, especially when the law presumes him to be innocent until proven guilty. Even where statutory provisions expressly bar the grant of bail, such as in cases under the Unlawful Activities (Prevention) Act, 1967, this Court has expressly ruled that after a reasonably long period of incarceration, or for any other valid reason, such stringent provisions will melt down, and cannot be measured over and above the right of liberty guaranteed under Article 21 of the Constitution (see *Union of India v. K.A. Najeeb* [*Union of India v. K.A. Najeeb*, (2021) 3 SCC 713, paras 15 and 17]).”

25. Reliance has also been placed on the order dated 17.9.2021 passed by the Supreme Court in **Chintan Vidya Upadhyay Vs. State of Maharashtra, SLP Criminal No. 2543 of 2021**, whereby an accused in custody for 6 years was enlarged on bail in a case registered for commission of offence punishable under Section 302 IPC.

26. Learned Deputy Advocate General has opposed the grant of bail on the ground that petitioner has committed a heinous crime in broad daylight, as the petitioner, on instigation by his father Harjot Singh (co-accused), brought the gun to kill the victim and, therefore, being a person responsible for commission of offence, he does not deserve

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any leniency and, therefore, prayer for rejecting the bail application has been made.

27. It has been further submitted by learned Deputy Advocate General that petitioner and his father are prime accused in the matter. Therefore, petitioner is not entitled for bail.

28. Learned counsel for petitioner has submitted that in view of the incarceration of more than five years, and judgments referred supra, petitioner is entitled for bail, at this stage.

29. Accordingly, present petition is allowed and petitioner is ordered to be enlarged on bail, subject to his furnishing personal bond in the sum of Rs.2,00,000/- with one surety in the like amount to the satisfaction of trial Court/ Sessions Judge within two weeks, and upon such further conditions as may be deemed fit and proper by the trial Court, including the conditions enumerated hereinafter, so as to assure presence of the petitioner at the time of trial:-

- (i) That the petitioner shall make himself available to the Police or any other Investigating Agency or Court in the present case as and when required;
- (ii) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to

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overawe or influence or intimidate the prosecution witnesses;

- (iii) that the petitioner shall not obstruct the smooth progress of the investigation/trial;
- (iv) that the petitioner shall not commit the offence similar to the offence to which he is accused or suspected;
- (v) that the petitioner shall not misuse his liberty in any manner;
- (vi) that the petitioner shall not jump over the bail;
- (vii) that in case petitioner indulges in repetition of similar offence(s), then his bail shall be liable to be cancelled on taking appropriate steps by prosecution;
- (viii) that the petitioner shall keep on informing about the change in address, landline number and/or mobile number, if any, for his availability to Police and/or during trial; and
- (ix) the petitioner shall not leave India without permission of the Court.

30. It will be open to the prosecution to apply for imposing and/or to the trial Court to impose any other condition on the petitioner, enlarged on bail, as deemed necessary in the facts and circumstances of the case and in the interest of justice and thereupon, it will also be open to the trial Court to impose any other or further condition on the petitioner as it may deem necessary in the interest of justice.

31. In case the petitioner violates any conditions imposed upon him, his bail shall be liable to be cancelled. In

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such eventuality, prosecution may approach the competent Court of law for cancellation of bail, in accordance with law.

32. Learned trial Court is directed to comply with the directions issued by the High Court, vide communication No.HHC.VIG./Misc. Instructions/93-IV.7139 dated 18.03.2013.

33. Observations made in this petition hereinbefore shall not affect the merits of the case in any manner and are strictly confined for the disposal of the bail application.

The petition stands disposed of in the aforesaid terms.

(Vivek Singh Thakur)
Judge.

November 25, 2025^(sd)

**SUBHASH
CHAND
DHIMAN**

Digitally signed by SUBHASH CHAND DHIMAN
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