

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MP(M) No. 2389 of 2025****Reserved on: 03.11.2025****Date of Decision: 07.11.2025.**

Manjeet Singh Nadda**...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 Kamlesh Kumar, Advocate, vice
Mr Raj Kumar Verma, Advocate.****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. 58 of 2025, dated 14.03.2025, registered at Police Station Sadar, District Bilaspur, H.P., for the commission of offences punishable under Sections 61(2), 109, 238 of Bharatiya Nyaya Sanhita, 2023 (in short 'BNS') and Section 25 of Arms Act.

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

2. It has been asserted that the informant and 3-4 people were sitting in the courtyard on 14.03.20.25. Four people entered the courtyard at around 3 PM. Two of them pulled out pistols and started firing at the informant and other persons. The informant and other persons shouted for help and ran away from the spot. The assailants also ran away. Bambar Thakur, the informant and his PSO sustained injuries. They were taken to the hospital. The matter was reported to the police. The police registered the FIR and arrested the petitioner on 15.03.2025. The petitioner was not present at the crime scene, and he has no connection with the commission of the crime. The petitioner's mobile phone was seized. There was no call between the petitioner and the co-accused. The petitioner was subjected to custodial torture on the night of 07.08.2025. A civil writ petition has been filed before the Court, which is pending adjudication. The charges have not been framed. One of the co-accused, Rohit Rana, was released on bail by the learned Sessions Judge, Bilaspur, on 08.08.2025. The role attributed to him is similar to the role attributed to the petitioner. The petitioner is entitled to bail on the principle of parity. 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 petitioner, Manjeet Singh Nadda, was aware of the fact that Saurab Patial was shot near Bilaspur Court Complex. He wanted to take revenge. The petitioner kept a watch on the movement and shared the information with the co-accused. The petitioner had sent Aman @ Kaku with three shooters; however, Bambar Thakur was not present at home, and they had returned. The petitioner had used the vehicle of the co-accused Rohit Kumar Rana bearing registration No. HP93-2944 to abscond with him. The co-accused Saurab Patial, the petitioner and other co-accused were aware of the fact that people would visit the house of Bambar Thakur on 14.03.2025 to celebrate Holi. He had asked the petitioner and other co-accused to keep an eye on the movement of Bambar Thakur. The petitioner and Ritesh were found together at the time of the shooting incident. The location of the mobile phone of the petitioner, Ritesh Sharma and Rohit Kumar Rana was found at Bilaspur. The petitioner had talked to Rohit Rana on 14.03.2025 at 02.41 pm and 3:04 pm. The petitioner and Rohit Rana had moved towards Mandi after the incident. The petitioner had deleted the data from his mobile phone, and the mobile phone was sent to SFSL, Junga, for the retrieval of data.

The result from SFSL, Junga, is awaited. The petitioner and other persons had attacked Sunny inside the Jail, and FIR No. 111/25 was registered in the Police Station. 30 FIRs have been registered against the petitioner, out of which 18 are pending for trial and investigation. The police have filed the charge sheet, and the matter is pending before the learned Additional Sessions Judge, Bilaspur, on 28.10.2025. Hence, the status report.

4. I have heard Mr Kamlesh Kumar, learned counsel, vice Mr Raj Kumar Verma, Advocate for the petitioner and Mr Jitender Sharma, learned Additional Advocate General for the respondent/State.

5. Mr Kamlesh Kumar, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The co-accused has been released on bail, and the petitioner is entitled to bail on the principle of parity. 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 18 FIRs are pending against the petitioner, and he has criminal antecedents.

He had kept a watch over the movement of the victim and sent the shooters to the spot. His role is different from Rohit Rana's, and he cannot claim parity with him. 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 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:

*“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, 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 re-

gard 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 the 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 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 was a conspirator with the co-accused. He had kept a watch on the victim’s movement. He had supplied this information to the co-accused. He had sent the shooters with Aman @ Kaku and had absconded from the spot with Ritesh. It was laid down by the Hon’ble Judicial Committee of the Privy Council about a century ago in *Barendra Kumar Ghosh versus Emperor*, AIR 1925 (PC) 1, that

in crimes as in other things, "they also serve who only stand and wait." It was observed:

“23. As soon, however, as the other sections of this part of the Code are looked at, it becomes plain that the words of Section 31 are not to be eviscerated by reading them in this exceedingly limited sense. By Section 33, a criminal act in Section 34 includes a series of acts and, further, "act" includes omission to act, for example, an omission to interfere to prevent a murder being done before one's very eyes. By Section 37, when any offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence. Even if the appellant did nothing as he stood outside the door, it is to be remembered that in crimes as in other things, "they also serve who only stand and wait." By Section 38, when several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act. Read together, these sections are reasonably plain. Section 34 deals with the doing of separate acts, similar or diverse, by several persons; if all are done in furtherance of a common intention, each person is liable for the result of them all, as if he had done them himself, for "that act" and "the act" in the latter part of the section must include the whole action covered by "a criminal act" in the first part because they refer to it. Section 37 provides that when several acts are done so as to result together in the commission of an offence, the doing of any one of them, with an intention to cooperate in the offence (which may not be the same as an intention common to all), makes the actor liable to be punished for the commission of the offence. Section 38 provides for different punishments for different offences as an alternative to one punishment for one offence, whether the persons engaged or concerned in the commission of a criminal act are set in motion by one intention or by the other.”

11. Therefore, the petitioner is *prima facie* involved in the commission of the offence.

12. It was submitted that the petitioner was beaten inside the jail, and he has filed a Civil Writ Petition No. 13313 of 2025, which is pending before the Court. Since the matter is pending before the coordinate Bench of this Court; therefore, it is highly improper for this Court to say anything in the matter.

13. The status report shows that 30 FIRs were registered against the petitioner, out of which 18 are pending investigation. This shows that the petitioner has criminal antecedents. This Court exhaustively dealt with the relevance of criminal antecedents in *Aminodin vs State of H.P. 2024: HHC: 6091* and held, after referring to various judgments, that a Judge must consider the criminal antecedents of the accused, the nature of offences and his general conduct while considering the bail petition. Bail should not be generally granted to an accused with criminal antecedents when there is a likelihood of the commission of the crime.

14. 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 circumstances suggest creating trouble by repeating the offence.

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.

15. It was held in *Gudikanti Narasimhulu v. High Court of A.P.*, (1978) 1 SCC 240: 1978 SCC (Cri) 115 that where the person seeking bail has criminal antecedents, he is not entitled to bail. It was observed:

“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)

16. It was held in *V. Senthil Balaji v. Enforcement Directorate*, 2024 SCC OnLine SC 2626, that where the petitioner

can become a threat to society because of her criminal antecedents, she should not be released on bail. It was observed:

“27.....An exception will also be in a case where, considering the antecedents of the accused, there is every possibility of the accused becoming a real threat to society if enlarged on bail. The jurisdiction to issue prerogative writs is always discretionary.”

17. Similarly, it was held in *Union of India v. Barakathullah*, 2024 SCC OnLine SC 1019, that where the persons were involved in the commission of similar offences, they should not be released on bail. It was observed: -

“20. ... So far as the respondents in the instant appeals are concerned, they are in custody for hardly one and a half years, apart from the fact that all the respondents are shown to have been involved in previous cases. There are about 8 to 9 previous cases shown in the chargesheet against the respondents, except accused Nos. 1, 4 and 6, who are shown to have been involved in two cases. Considering the nature and gravity of the alleged offences and considering their criminal antecedents, in our opinion High Court should not have taken a lenient view, more particularly when there was sufficient material to show their *prima facie* involvement in the alleged offences under the UAPA.

18. It was laid down by the Hon’ble Supreme Court in *Pinki v. State of U.P.*, (2025) 7 SCC 314: 2025 SCC OnLine SC 781 that the liberty of a person has to be balanced with peace and harmony in society. Liberty cannot be elevated to such a high pedestal as

would bring in anarchy or disorder in society. It was observed at page 384:

“65. We are absolutely conscious that the liberty of a person should not be lightly dealt with, for the deprivation of the liberty of a person has an immense impact on the mind. Incarceration creates a concavity in the personality of an individual. Sometimes it causes a sense of emptiness. Needless to emphasise, the sacrosanctity of liberty is paramount in a civilised society. However, in a democratic body polity which is wedded to the rule of law, an individual is expected to grow within the social restrictions sanctioned by law. Individual liberty is restricted by larger social interests, and its deprivation must have due sanction of law. In an orderly society, an individual is expected to live with dignity, having respect for the law and also giving due respect to others' rights. It is a well-accepted principle that the concept of liberty is not in the realm of absolutism but is a restricted one. The cry of the collective for justice, its desire for peace and harmony and its necessity for security cannot be allowed to be trivialised. The life of an individual living in a society governed by the rule of law has to be regulated, and such regulations, which are the source of law, subserve the social balance and function as a significant instrument for the protection of human rights and the security of the collective. This is because, fundamentally, laws are made for their obedience so that every member of the society lives peacefully in a society to achieve their individual as well as social interests. That is why Edmond Burke, while discussing liberty, opined, “*it is regulated freedom*”.

66. It is also to be kept in mind that individual liberty cannot be accentuated to such an extent or elevated to such a high pedestal that it would bring in anarchy or disorder in society. The prospect of greater justice requires that law and order prevail in a civilised milieu. True it is, there can

be no arithmetical formula for fixing the parameters in precise exactitude, but the adjudication should express not only application of mind but also exercise of jurisdiction on accepted and established norms. Law and order in a society protect the established precepts and see to it that contagious crimes do not become epidemic. In an organised society, the concept of liberty basically requires citizens to be responsible and not to disturb the tranquillity and safety which every well-meaning person desires. Not for nothing, J. Oerter stated: “*Personal liberty is the right to act without interference within the limits of the law.*”

67. Thus analysed, it is clear that though liberty is a greatly cherished value in the life of an individual, it is a controlled and restricted one, and no element in the society can act in a manner by consequence of which the life or liberty of others is jeopardised, for the rational collective does not countenance an anti-social or anti-collective act. (See: *Ash Mohammad v. Shiv Raj Singh*, (2012) 9 SCC 446: (2012) 3 SCC (Cri) 1172.).

19. Therefore, the petitioner is not entitled to bail because of his criminal antecedents.

20. It was submitted that the co-accused has been released on bail and the petitioner is entitled to bail on the principle of parity. This submission cannot be accepted. The criminal antecedents of the petitioner will distinguish the petitioner's case from that of the co-accused, and the petitioner cannot claim parity with the co-accused.

21. No other point was urged.

22. In view of the above, the petitioner is not entitled to bail; hence, the present petition fails, and it is dismissed.

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

(Rakesh Kainthla)
Judge

7th November 2025.
(Nikita)