

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP (M) No. 2605 of 2025

Reserved on: 13.11.2025

Date of Decision: 24.11.2025.

Amandeep Singh alias Amandeep Oshan

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

For the Petitioner : M/s Jashandeep Singh Bains
and Pawan Preet Singh Sidhu,
Advocates.

For the Respondent/State : Mr Jitender Sharma,
Additional Advocate General,
assisted by ASI Rajpal, PS
Damtal, District Kangra, HP.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking regular bail in FIR No. 85 of 2025, dated 27.6.2025, registered at Police Station, Damtal, District Kangra, H.P., for the commission of offences punishable under Sections 115(2), 309(4), 324(4), and 238 read with Section 3(5) of Bhartiya Nyaya 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 Mohan Singh was performing night duty at Toll Barrier, Bhadroya, along with his colleague Rajneesh Kumar in the intervening night of 26/27.06.2025, at about 11.26 PM. A vehicle bearing registration No. PB-01B-8761 was stopped at the barrier. Four people were sitting in the vehicle. They objected to the payment of toll. One person came out of the car and started abusing and assaulting the informant. Two other people also came out of the car. The assailants snatched ₹55,000/- and fled towards Kandwal. They returned after a few minutes and attacked the informant and his colleague with swords. They caused damage to the barricade and the motorcycle. These allegations are false. The petitioner is innocent, and he was falsely implicated. The allegations in the FIR do not disclose the petitioner's involvement. The petitioner is a taxi driver, and he was using his vehicle to convey the persons who were described as Nihang. The taxes are collected through the Fast Tag in Toll Plaza, and the informant's version regarding the snatching of the ₹55,000/- is highly improbable. Grant of bail is the rule and jail is the exception. The petitioner had taken the vehicle on rent from one Harinder Sahi on a monthly rent of ₹21,000/-. The

petitioner is the sole earner of his family. He has two years old child who is totally dependent upon him. The petitioner has no criminal antecedents except one FIR No. 255, dated 28.6.2025, registered at Police Station Kharar, Mohali. The police have filed the charge sheet on 25.8.2025, and no 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 the petition.

3. The petition is opposed by filing a status report asserting that informant Mohan Singh and Rajeesh Kumar were posted at night duty at Bhadroya Barrier in the intervening night of 26/27.6.2025. A vehicle bearing registration No. PB-08B-08161 came from Pathankot at about 11.26 PM. Four people were travelling in the vehicle. One person came out of the vehicle carrying a sword. He asked the informant as to why he (accused) was being stopped and a toll being charged from him. Two other persons armed with swords got out of the vehicle. One person slapped the informant and snatched ₹55,000/-. The informant called his Manager, Harish and told him about the incident. The assailants returned after some time. Three people got out of the vehicle and ran after the informant and Rajneesh. They also

damaged the barricade and the motorcycle bearing registration No.HP-97-0366. The incident was recorded on the CCTV camera. The police registered the FIR and investigated the matter. The police checked the CCTV Footage and found three Nihangs brandishing their swords. They also snatched money from the employees of the Toll Tax Barrier. The petitioner had given beatings to the employees of the Toll Tax Barrier. The petitioner was found at Nijar Chowk, Khad. The police disclosed their identity. The petitioner attacked the police party with a sword. The local police reached the spot, and the petitioner also attacked them. FIR No. 255/25 was registered against the petitioner. The petitioner was residing near Ulhasnagar, Thane, Mumbai; however, he had left that place six years ago. He claimed that he was residing at Nala Supara, but he was not found to be residing at Nala Supara after 2024. The other accused has absconded. The petitioner would also abscond if released on bail. Therefore, it was prayed that the present petition be dismissed.

4. I have heard M/s Jashandeep Singh Bains and Pawandeep Singh Sidhu, learned counsel for the petitioner, and

Mr Jitender K. Sharma, learned Additional Advocate General, for the respondent-State.

5. Mr Jashandeep Singh Bains, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. He would abide by the terms and conditions that the Court may impose. 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 is involved in the commission of a heinous offence. He had snatched the money from the employees of Toll Tax Barrier. He brandished the sword at the place of the incident, which was visible in the CCTV footage. The petitioner had attacked the police officials, and he would threaten the witnesses in case of his release on bail. 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 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 Narasimhuluv. 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 Bhativ.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 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. 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, but the gravity and heinousness of the crime should weigh with the Court while considering the bail petition. 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....”

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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 bail. So also, the heinousness of the crime....”

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

12. The status report shows that the petitioner was seen in the CCTV footage brandishing the sword. He had given beatings to the employees of the Toll Tax Barrier, and his friend Gurbaz had snatched money from the employees of the Toll Tax Barrier. He was again seen running after the employees, and one person was seen damaging his motorcycle. These allegations, *prima facie*, disclose the commission of offences punishable under Sections 115(2), 309(4), 324(4) and 238 read with Section 3(5) of BNS.

13. The status report also shows that the petitioner took out the sword and threatened the police officials when the police tried to apprehend him. When the local police intervened, the petitioner also quarrelled with them. These allegations *prima facie* show that the petitioner is likely to intimidate the witnesses of the incident, and releasing him on bail, at this stage, would thwart the fair trial.

14. It was submitted that the allegations regarding the snatching of ₹55,000/- from the employees of the Toll Tax Barrier are highly improbable. The toll tax is being paid through fast tags, and it is highly unlikely that cash of ₹55,000/- would be available with the employees. This submission will not help the petitioner. The status report shows that the co-accused was seen with the money in his hand. This *prima facie* corroborates the informant's version regarding the snatching of the money. The exact quantity may or may not be correct, but the fact that the money was snatched is duly corroborated by the CCTV footage.

15. It was submitted that the petitioner belongs to the Nihang community and is not likely to commit an offence

alleged against him. It is difficult to make any such generalisation. The incident has been recorded in the CCTV Footage and cannot be *prima facie* doubted.

16. The trial has not commenced, and releasing the petitioner on bail would adversely affect the fair trial because the chances of intimidating the witnesses cannot be ruled out. Hence, the petitioner is not entitled to bail.

17. No other point was urged.

18. In view of the above, the present petition fails, and it is dismissed.

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

(Rakesh Kainthla)
Judge

24th November, 2025
(Chander)