

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr. MP(M) No. 2820 of 2025

Reserved on : 23.12.2025

Decided on : 30.12.2025

Jai Pal

...Applicant

Versus

State of Himachal Pradesh & Ors.

...Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?

For the applicant : Mr. Jagmohan Singh Chandel,
Advocate.

For the respondents : Mr. H.S. Rawat, Additional
Advocate General, with Mr.
Rohit Sharma, Deputy Advocate
General, assisted by ASI Netar
Singh, Police Station Brow,
District Kullu, H.P., for
respondent No. 1-State.

None for respondents No. 2 & 3.

Virender Singh, Judge

Applicant-Jai Pal has filed the present
application under Section 483 of the Bharatiya Nagarik

Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), for releasing him, on bail, during the pendency of the trial, arising out of **FIR No. 15/2025, dated 22.02.2025**, registered **under Sections 333, 191(2), 190, 127(2), 351(2), 64 of Bharatiya Nyaya Sanhita, 2023** (hereinafter referred to as the BNS) and **Section 6 of Protection of Children from Sexual Offences Act** (hereinafter referred to as the POCSO Act), with **Police Station Brow**, Tehsil Nirmand, District Kullu, H.P.

2. The complainant, as well as, the child victim, in the present case, have been impleaded as respondents No. 2 and 3, vide order dated 02.12.2025.

3. According to the applicant, he is innocent person and has falsely been implicated, in the present case. He has no concern whatsoever with the alleged crime, for which, he has been named, as an accused and arrested.

4. The applicant is stated to be the sole bread earner of the family, consisting of his wife and minor son and there is nobody to take care of his family.

5. The applicant has earlier tried his luck by moving the similar application before the Court of learned Additional Sessions Judge, Fast Track Special Court, Kinnaur at Rampur Bushahr, however, his application has been rejected on 29.03.2025. Thereafter, he has filed interim bail before this Court, which was allowed by this Court on 29.10.2025.

6. The applicant has further pleaded that charges have been framed on 14.05.2025, and till date, no prosecution witnesses could be examined.

7. Apart from this, the applicant has given certain undertakings, for which, he is ready to abide by, in case, ordered to be released on bail, during the pendency of the trial.

8. On the basis of above facts, Mr. Jagmohan Singh Chandel, Advocate, appearing for the applicant, has prayed that the bail application may be allowed.

9. In this case, the applicant has impleaded the child victim and complainant, as respondents No. 2 and 3, who, despite notice, have not opted to put appearance and

not opted to contest the petition, whereas, respondent No. 1 has filed the reply, disclosing therein, that on 22.02.2025, complainant along with child victim appeared before the police and moved the complaint that on 21.02.2025, one girl namely Nikita, had beaten the child victim and applicant has raped the child victim.

9.1 According to her, on 21.02.2025, at about 9:45 pm, she received an information that with the child victim, in her room at place X, Nikita along with Shishma Devi, Ram Singh, Yashpal and others had threatened to kill the child victim. They knocked the door of the child victim on one pretext and other and thereafter, they had requested her to provide charger. When, the child victim, opened the door, then Nikita tried to strangulate the child victim and caught her from the neck, upon which, child victim started screaming. Thereafter, they had snatched the phone and charger from the child victim. Thereafter, child victim was beaten by them and they had dragged her to Police Station Brow, where four persons had overpowered the child victim and one person entered in the Police Station. They also

threatened that, in case, child victim discloses anything to the police, they will finish her. They left the child victim on the road. The date of birth of the child victim is 06.09.2007. Lastly, she has got recorded that the applicant, on the false pretext of the marriage, raped the child victim, as such, she has requested that action be taken against the accused (applicant).

9.2 On the basis of above facts, police registered the FIR in question. Thereafter, statements of the parents of child victim were recorded. The statement of child victim was recorded under Section 180 of BNSS. She was got medico legally examined at CH Nirmand, where, medical evidence, so collected was preserved.

9.3. It has been found during investigation that accused applicant met the child victim in the month of July, 2024, as he used to drive a vehicle. He also used to give lift to the child victim and consequently, both of them had developed acquaintance with each other.

9.4. Thereafter, accused (applicant) and the child victim used to remain in contact with each other on phone.

In the month of August, 2024, when child victim had gone to college X, to pursue her studies in B.A. 1st year, then she had taken a room on rent at place Y.

9.5 Thereafter, accused used to visit the child victim in her room and on the pretext of marriage, by claiming himself to be unmarried, he developed physical relations with the child victim. When the wife of the applicant came to know about their relationship, then in the last week of August, 2024, she had gone to the room of child victim and created a scene. Thereafter, in order to save their honour, parents of the child victim, changed the residential quarters, where also the applicant had physical relations with the child victim. Due to this fact, the child victim got pregnant.

9.6 Thereafter, the said fetus was aborted. The child victim again had gone to her residential quarter on 03.01.2025, but applicant again started visiting the child victim in the said residential quarter. As per the statement of the child victim, on 20.02.2025, applicant visited the child victim, in her quarter and made physical relations with her. When the accused (applicant) had not gone to his home

for five-six days, then on 21.02.2025, at about 7:30 pm, his wife Nikita, reached at the residential quarter of child victim, in search of her husband and he was not there. Then, she had beaten the child victim.

9.7. It is the further case of the police that the applicant was associated in the investigation and was arrested on 22.02.2025, at 10:15 pm. He was medico legally examined and physical evidence, so collected, by the Doctor, was taken into possession. The statement of child victim under Section 183 of BNSS was recorded before the Court of learned JMFC Anni. On the basis of the statement, Section 69 of BNS was added, in this case.

9.8 The charge-sheet has been filed on 17.04.2025. Thereafter, the supplementary charge-sheet has been filed, after receiving the report of DNA.

9.9 Lastly, it has been apprehended that in case, the applicant is released on bail, he may coerce the witnesses and again indulge in the similar activity.

10. On the basis of above facts, a prayer has been made to dismiss the application.

11. As per the documents, investigation, in the present case is complete and case, is now listed for PWs. The applicant, in the present case, was arrested on 22.02.2025. Meaning thereby, almost ten months have elapsed and trial against him has not been concluded.

12. The charge against the applicant, in this case, was framed on 14.05.2025 and thereafter, six effective opportunities have been granted. Meaning thereby, chances of conclusion of the trial in near future are not so bright. As such, no useful purpose, would be served by keeping the applicant in judicial custody, that too, for indefinite period.

13. Apart from the present case, no other case has been found to be registered against the applicant. As such, it can be said that the accused (applicant) is presumed to be innocent, unless proven guilty. The presumption of innocence is still available to the applicant, as the bail application cannot be rejected merely as a matter of punishment, since, pre-trial punishment is prohibited under the law.

14. The applicant is permanent resident of District

Kullu, as such, it cannot be apprehended that in case, he is ordered to be released on bail, he may not be available for the trial.

15. So far as the apprehensions, which have been expressed by the police in the status report, are concerned, for those apprehensions, reasonable conditions can be imposed.

16. Considering all these facts, this Court is of the view that the bail application is liable to be allowed and is accordingly allowed.

17. Consequently, the applicant is ordered to be released, on bail, during the pendency of trial, arising out of **FIR No. 15/2025, dated 22.02.2025, under Sections 333, 191(2), 190, 127(2), 351(2), 64 of BNS and Section 6 of POCSO Act**, registered with **Police Station Brow**, District Kullu, H.P. on his furnishing personal bonds in the sum of Rs. 50,000/-, with one surety of the like amount, to the satisfaction of the learned trial Court.

18. This order, however, shall be subject to the following conditions:-

a) The applicant shall regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing the appropriate application;

b) The applicant shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;

c) The applicant shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or the Police Officer; and

d) The applicant shall not leave the territory of India without the prior permission of the Court.

19. Any of the observations, made hereinabove, shall not be taken, as an expression of opinion, on the merits of the case, as these observations are confined, only to the disposal of the present bail application.

20. It is made clear that respondent-State is at liberty to move an appropriate application, in case, any of the bail conditions is found violated by the applicant.

21. The Registry is directed to forward a soft copy of the bail order to the Superintendent of Jail, Model Central Jail Kanda, Shimla, H.P., through e-mail, with a direction to

enter the date of grant of bail in the e-prison software.

22. In case, the applicant is not released within a period of seven days from the date of grant of bail, the Superintendent of Jail, Model Central Jail Kanda, Shimla, H.P., is directed to inform this fact to the Secretary, DLSA, Shimla. The Superintendent of Jail, Model Central Jail Kanda, Shimla, H.P., is further directed that if the applicant fails to furnish the bail bonds, as per the order passed by this Court, within a period of one month from today, then, the said fact be submitted to this Court.

(Virender Singh)
Judge

30th December, 2025
(Pramod Kumar)

RAJNI Digitally signed
by RAJNI
Date: 2025.12.30
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