

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP No. 1248 of 2026 in Cr. Appeal No. 316 of 2024

Reserved on: 10.9.2026

Decided on: 15.9.2026

Uploaded on: 15.9.2026

Vinod Shah.

...Appellant/Applicant.

Versus

State of H.P.

...Respondent.

Corum

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

Hon'ble Mr. Justice Bhupesh Sharma, Judge.

Whether approved for reporting?¹

For the Applicant.

Mr. Arjun Lall, Advocate, Legal Aid Counsel.

For the Respondent:

Mr. Raj Negi, Deputy Advocate General.

Vivek Singh Thakur, Judge

This application has been preferred by applicant/appellant for suspension of his sentence, awarded to him in sequel to judgment/order dated 6.3.2024 passed in Sessions Trial No. 69 of 2018 (CIS Case No. 20 of 2018), titled as State of H.P. Vs. Vinod Shah in case FIR No. 69 of 2018, dated 28.3.2018, registered in Police Station, Manali, District Kullu, under Section 302 and 201 of the Indian Penal Code (for short 'IPC'). The

¹***Whether the reporters of the local papers may be allowed to see the Judgment? Yes***

applicant has been convicted under Section 302 IPC and sentenced to undergo life imprisonment and to pay fine of ₹5,000/- and in default of payment of fine to further undergo simple imprisonment of 1 year. However, applicant has been acquitted of charge under Section 201 of IPC.

2. Learned counsel for the applicant has submitted that there is fair chance of acquittal of the applicant, as he has been convicted on the basis of circumstantial evidence, but without completing the chain of circumstantial evidence, and the evidence of circumstances on the basis of which applicant has been convicted and sentences are not reliable.

3. It has been submitted by learned counsel for the applicant that first circumstances taken into consideration against the applicant is burial of deceased wife by applicant in the heap of dung, allegedly witnessed by PW-2 Janak Raj, from whom the said fact came in the knowledge of PW-1 Chaman Lal, PW-3 Prem Lal and PW-4 Shiv Ram. It has been submitted that there are discrepancies and contradictions in the statement of PW-2 Janak Raj, who in the Court has stated that after disclosing the fact to the landlord PW-1 Chaman Lal, he went to bazar. Whereas as per prosecution case, as has been deposed by PW-1 Chaman Lal and PW-3 Prem Lal, PW-2 Janak Raj was accompanying them when dead body was recovered from the heap of dung and, therefore, for two counts, statement of PW-2 Janak Raj is unreliable, as after telling about commission of such a heinous

crime, he went to bazar and also contradicted that he was present at the time of recovery of dead body of deceased.

4. It has been further submitted that none of witnesses have seen applicant/appellant burring his wife under the heap of cow dung, as PW-2 Janak Raj has stated to the fact that he saw the applicant sitting on the heap of cow dung and on his inquiry, he disclosed that his wife was sick and was taken to hospital for treatment.

5. It has been further submitted that another circumstance taken into consideration against the applicant is disclosure statement allegedly made by him under Section 27 of the Indian Evidence Act, wherein he had disclosed about peace of pipe kept by him in the quarter and one stone lying in the field, which was allegedly used by him to hit his wife causing her death.

6. Learned counsel for the applicant referring judgments of the Apex Court in **Anand Jakkappa Pujari Vs. State of Karnataka, 2026 SCC OnLine SC 716; Ramanand @ Nandlal Bharti Vs. State of Urrar Pradesh (2013) 16 SCC 510**, has submitted that disclosure statement has not been recorded in consonance with law and, therefore, recovery in pursuance to such statement cannot be used against the applicant and he has further submitted that in absence of recovery of pipe and stone, there is no other evidence regarding use of pipe and stone by the applicant for causing death of his wife.

7. It has been further submitted that the incident was reported to the Police on 28.3.2018 and applicant was arrested on 29.3.2018 in the evening and at that time his clothes were not taken into possession, but taken in to possession on 30.3.2018 and his disclosure statement was recorded on 31.3.2018, which indicates that story has been concocted to frame the applicant and no reason has been assigned as to why on 28.3.2018 blood was not collected from the stairs of the house, and why immediately after arrest of applicant, weapon of offence i.e. pipe and stone were not recovered, and there is also no reason as to why his clothes were not taken into possession on 29.3.2018. According to him all this creates doubt about the veracity of prosecution case.

8. It has been also submitted by learned counsel for the applicant that PW-9 Dr. Sanjay Chandel, who had conducted post-mortem, in his cross-examination has categorically admitted that ante-mortem external injuries mentioned in the post-mortem report (Ext. PW-9/A) may be caused by fall from height and, therefore, there is no specific medical evidence or observation in the post-mortem report to conclude that wife of applicant was murdered by the applicant, thus possibility of death on account of fall cannot be ruled out, and benefit thereof has to be extended to the applicant.

9. With the aforesaid submissions, learned counsel for the applicant has submitted that sentence imposed upon the applicant deserves to be suspended during pendency of the appeal.

10. Learned Deputy Advocate General has submitted that the applicant has committed a heinous crime of murder of his wife in rented accommodation where he was living with his family, and in case of death of his wife on account of fall or otherwise, it was his duty to disclose the cause of death. Further, that there is no discrepancy or contradiction in the statements of PW-1 Chaman Lal, PW-2 Janak Raj, PW-3 Prem Lal, and PW-4 Shiv Ram rather, there is consistency in their statements, which is sufficient to prove that deceased wife of appellant was buried by the appellant in the cow dung.

11. It has been submitted by learned Deputy Advocate General that in case it was an accidental death, there was no reason for the appellant to flee from the spot, who was arrested on next day in the evening.

12. Learned Deputy Advocate General has submitted that disclosure statement under Section 27 of the Indian Evidence Act Ext. PW-5/B has been recorded in consonance with law, and case law cited by the appellant is not applicable in present case.

13. Learned Deputy Advocate General has also submitted that the post-mortem report, especially injuries on both side of head, also clearly depicts that it was a case of murder.

14. It has been further submitted by learned Deputy Advocate General that the applicant was arrested on 29.3.2018 at about 6:00 PM, and he handed over his clothes on 30.3.2018, and made disclosure statement on 31.3.2018 and therefore, there was no occasion for the Investigating Officer to take his clothes in possession on 29.3.2018, and to record his disclosure statement before 31.3.2018, as he had made disclosure statement only on 31.3.2018.

15. With the aforesaid submissions, learned Deputy Advocate General has submitted that the application deserves to be dismissed.

16. On perusal of deposition of PW-2, Janak Raj, recorded in the Court, it is apparent that though he had stated that he saw the accused sitting on heap of cow dung and inquired from him about the reason for sitting over there, and also stated that after disclosing the fact to landlord PW-1 Chaman Lal, he went to bazaar but it is not the complete statement. Some lines cannot be picked from the statement of any witness by ignoring the other portion of the statement. This witness has categorically stated that the applicant had said that his wife was sick and she was to be taken to the hospital for treatment, whereupon this witness had asked him to call his landlord and take his wife to hospital, and further that appellant had also

stated that his wife was feeling cold and he was covering her body with cow dung. It is also noticeable that after stating that after disclosing these facts to landlord he went to bazaar, it has also been deposed that later on Police came to the spot and he (PW-2) remained present on the spot with the Police. Therefore, statement of this witness referred by learned counsel for the applicant is half-truth. The complete truth is revealed by reading the complete statement of this witness, and there is no discrepancy in the statement of this witness, contradicting the prosecution story.

17. Similarly, statements of PW-1 Chaman Lal, PW-3 Prem Lal, and PW-4 Shiv Ram are corroborating the statements of each other.

18. Plea of the applicant that Doctor has admitted that injuries may have been caused by fall, and, therefore, Doctor's statement is also favourable to the appellant, is not correct. Firstly, the Doctor has stated that these injuries may have been caused from fall from height. Then it was for the applicant to explain or disclose from which height the deceased had fallen in a room, so as to causing such severe injuries on the head of the deceased.

19. It is also noticeable that as per post-mortem report Ext. PW-9/A, with regard to ante-mortem injuries, it has been noticed by the Doctor as under:-

“Antimortem injuries.

- I) There are three bone deep lacerated wound of size 6x4" oblique indirection over left parietal bone 5x3", four cms above occipital protuberance and 7x4" transverse in direction 6 cm above right over mid parietal bone;
- ii) There are two lacerated wound of size 4x3 cm and 3x3 cm over both lateral sides of upper lip with laceration of frenulum of upper lip."

20. The aforesaid injuries depict that injuries were not only on one side of face or head, but were on the left side as well as on the right side. In case a person falls from height in a room, it is not possible to receive injuries on both sides of head unless the head is shaken by someone else with some object or wall on both sides or is hit by some weapon from both sides, that is left side and right side. Therefore, the plea taken on behalf of applicant in respect of statement of Doctor is not favourable to the applicant.

21. It is a case where husband and wife were residing together. The wife has expired in an unnatural manner and, therefore, it was for the applicant to explain how and in what manner she had died, and why he was burying her under the heap of cow dung and in case she had fallen from any height and had received injuries, then why he disclosed to PW-2, Janak Raj, that his wife was sick and was to be taken to the hospital, but she was feeling cold and thus he was covering her body with cow dung.

22. Trial Court, taking into consideration the entire evidence on record and referring the pronouncements of the Apex Court in ***State of West Bengal Vs. Mir Mohd. Omar (2000) 8 SCC 382; Trimukh Maruti Kirken Vs. State of Maharashtra (2006) 10 SCC 681***, and ***Collector of Customs Vs. D. Bhoormall (1974) 2 SCC 544***, has convicted the applicant/appellant, which *prima facie* appears to be correct.

23. It is not a case where *ex facie*, it can be said that no case is made out against the applicant or fair chance of acquittal is apparent on face of record.

24. In view of above discussion, we are of the considered opinion that at this stage, the applicant/appellant is not entitled for suspension of sentence. Accordingly, the application is dismissed.

25. Any expression of opinion given in this order does not mean an expression of opinion on the merits of the case and the same has been given only for the purpose of deciding present application only.

**(Vivek Singh Thakur),
Judge.**

**(Bhupesh Sharma),
Judge.**

15th September, 2026
(Keshav)