

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CrMP(M) No. 1397 and 1413 of 2026

Reserved on: 24.09.2026.

Decided on: 28.09.2026

1. Cr.MP(M) No. 1397 of 2026

Manish Aggarwal Petitioner

Versus

State of H.P. Respondent

2. Cr.MP(M) No.1413 of 2026

Yashpal Aggarwal Petitioner

Versus

State of H.P. Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No

For the Petitioner(s) : Mr Ram Murti Bisht, Senior Advocate with Mr Rajesh Mandhotra, Advocate, in both the petitions.

For the Respondent/State : Mr Jitender Sharma, Additional Advocate General, in both the petitions.

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

Rakesh Kainthla, Judge

The petitioners have filed the present petitions seeking pre-arrest bail in FIR No. 1 of 2026 dated 03.03.2026 registered at Police Station SV and ACB, Nahan, District Sirmaur, H.P., for the commission of offences punishable under Sections 420, 447, and 120B of the Indian Penal Code (IPC) and Sections 32 and 33 of the Indian Forest Act. Since both the petitions have arisen out of the common FIR, they are being taken up together for disposal.

2. It has been asserted that the petitioners were falsely implicated in FIR No. 1 of 2026. They belong to a reputed family. Their custodial interrogation is not required. The road was constructed on the request of the Gram Panchayat after taking permission from the Forest Department by the Block Development Office, Rajgarh. The police projected a case that land was purchased by Jaswant Singh in the year 2006 as a benami transaction, but the petitioners have no role in the purchase of the land. Jaswant Singh has been enlarged on bail by the learned Judicial Magistrate First Class, Rajgarh District Sirmaur on 04.07.2026. The petitioners are ready and willing to join the investigation and abide by the terms and conditions that the Court may impose. Hence, it was prayed

that the present petitions be allowed and the petitioners be released on pre-arrest bail.

3. The petitions are opposed by filing separate status reports asserting that a complaint was received at the Police Station that Gram Panchayat Karganu had passed a Resolution No.7 on 04.02.2019 for constructing a road. 0.50 hectares of forest land of the Forest Department was to be used for the construction of the road. An amount of ₹5,00,000/- was deposited. However, the actual construction was made on 2.00 hectares of the forest land. Many trees were illicitly felled. The construction was made to benefit a private individual. Hence, the police registered the FIR. It was found that the proposed road terminated at the private land of Jaswant Singh. He admitted during interrogation that ₹8,00,000/- was deposited by him with BDO Office Rajgarh, for the compensation of 39 trees falling within the road alignment. He developed a parking area and constructed a retaining wall over the adjoining government forest/shamlaat area for his exclusive use. Financial transactions have taken place between the accused Jaswant Singh and the petitioner Yashpal Aggarwal. Jaswant Singh could not produce any document pertaining to the sale consideration/source of money paid to the seller. The amount of ₹8,00,000/- deposited

by the accused Jaswant Singh was also transferred to him by the petitioner Yashpal Aggarwal. Some other transactions were found to have been made by Jaswant Singh, which were beyond his means. Yashpal Aggarwal and Manish Aggarwal are the sleeping partners with Jaswant Singh in the purchase of Benami land in the State of HP. The evidence collected established close financial, commercial, and property-related nexus among Jaswant Singh, Yashpal Aggarwal and Manish Aggarwal. Hence, the status reports.

4. I have heard Mr Ram Murti Bisht, learned Senior Advocate, assisted by Mr Rajesh Mandhotra, learned counsel for the petitioners and Mr Jitender Sharma, learned Additional Advocate General for the respondent/State.

5. Mr Ram Murti Bisht, learned Senior Advocate for the petitioner, submitted that the petitioners had joined the investigation. Their custodial interrogation is not necessary. The allegations in the FIR merely show that the petitioners had paid the money to Jaswant Singh. Even if these allegations are taken to be correct, they do not constitute the commission of any offence. There is no allegation that the petitioners were responsible for cutting the trees or encroaching upon the Government land.

Jaswant Singh has already been released on bail by the learned Judicial Magistrate. Therefore, he prayed that the present petitions be allowed and the petitioners be released on bail.

6. Mr Jitender Sharma, learned Additional Advocate General for the respondent/State, conceded that the petitioners had joined the investigation and their custodial interrogation is not required. He submitted that bail should not be granted to the petitioners considering the gravity of the offence.

7. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

8. It was laid down by the Hon'ble Supreme Court in *P. Chidambaram v. Directorate of Enforcement*, (2019) 9 SCC 24: (2019) 3 SCC (Cri) 509: 2019 SCC OnLine SC 1143 that the power of pre-arrest bail is extraordinary and should be exercised sparingly. It was observed:

“69. Ordinarily, an arrest is a part of the procedure of the investigation to secure not only the presence of the accused but also several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power, and the same has to be exercised sparingly. The privilege of pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; the possibility of the applicant fleeing justice and

other factors are considered to decide whether it is a fit case for the grant of anticipatory bail. Grant of anticipatory bail to some extent interferes with the sphere of investigation of an offence, and hence, the court must be circumspect while exercising such power for the grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule, and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy.”

9. This position was reiterated in *Srikant Upadhyay v. State of Bihar*, 2024 SCC OnLine SC 282, wherein it was held:

“25. We have already held that the power to grant anticipatory bail is extraordinary. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of the imagination, be said that anticipatory bail is the rule. It cannot be the rule, and the question of its grant should be left to the cautious and judicious discretion of the Court, depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious, as the grant of interim protection or protection to the accused in serious cases may lead to a miscarriage of justice and may hamper the investigation to a great extent, as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest, and we say that such orders shall be passed in eminently fit cases.”

10. It was held in *Pratibha Manchanda v. State of Haryana*, (2023) 8 SCC 181: 2023 SCC OnLine SC 785 that the Courts should balance individual rights, public interest and fair investigation

while considering an application for pre-arrest bail. It was observed:

“21. The relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tightrope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each case becomes crucial to ensure a just outcome.”

11. The present petitions have to be decided as per the parameters laid down by the Hon'ble Supreme Court.

12. The allegations in the FIR show that the petitioners had advanced money to Jaswant Singh who had purchased property in various places. The police have not invoked the provisions of the Benami Transaction Prohibition Act but have relied upon the provisions of Sections 420, 447, 120B of IPC and Sections 32 and 33 of the Indian Forest Act. It is not the case of the prosecution that the petitioners had trespassed into the land of the State or had cut the trees from the land. Their involvement is regarding payment of money to Jaswant Singh, and the rest of the acts were done by

Jaswant Singh. Jaswant Singh has been released on bail by the learned Judicial Magistrate First Class. The position of a financier cannot be better than the position of the actual accused. Therefore, there is no justification to detain the petitioners in custody.

13. It was submitted that the allegations against the petitioners are grave and they are not entitled to pre-arrest bail. This submission cannot be accepted. The allegations against the petitioners are that they had paid money to Jaswant Singh, who had purchased the land at different places. Thus, the allegations are merely confined to the payment of money to the co-accused, which cannot be said to be grave.

14. It is undisputed that the petitioners had joined the investigation and their custodial interrogation is not necessary. Thus, no fruitful purpose would be served by detaining them in custody.

15. In view of the above, the present petitions are allowed, and the order dated 28.07.2026 is made absolute.

16. It is clarified that if the petitioners misuses the liberty or violates any of the conditions imposed upon them, the

investigating agency shall be free to move the Court for cancellation of their bail.

17. The observations made hereinabove are regarding the disposal of these petitions and will have no bearing, whatsoever, on the merits of the case.

(Rakesh Kainthla)
Judge

28th September, 2026
(Nikita)