

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

Cr. MP (M) No. 1491 of 2026

Date of Decision: 24.8.2026

Rahul ...Petitioner
Versus
State of Himachal Pradesh ...Respondent

Coram:

The Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?¹

For the Petitioner Mr. Parmod Singh Thakur, Mr.
Npun Thakur and Mr. Abhishek
Nagta, Advocates.
For the Respondent Mr. Rajan Kahol & Mr. Vishal
Panwar, Additional Advocates
General and Mr. Ravi Chauhan
& Mr. Anish Banshtu, Deputy
Advocates General.

Sandeep Sharma, J. (Oral)

Bail petitioner namely Rahul, who is behind bars since 13.05.2026, has approached this Court in the instant proceedings filed under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023 (in short "BNSS"), praying therein for grant of regular bail in case FIR No. 35/2026 dated 12.05.2026, registered at Police Station Kumarsain, District Shimla, under Sections 118(1), 3(5), 109 and 238 of Bharatiya Nyaya Sanhita, 2023.

¹ Whether reporters of the local papers may be allowed to see the judgment?

2. Pursuant to directions issued by this Court, respondent-State has filed status report and ASI Bhuvneshwari Mehta, has come present with record. Record perused and returned.

3. Close scrutiny of status report reveals that on 11.05.2026, complainant-victim Saurav Thakur, who was having some financial transaction with bail petitioner, asked him to meet him at Kingal. At Kingal, both complainant and bail petitioner Rahul met and decided to get the tipper of complainant repaired, for which bail petitioner allegedly agreed to make the payment with the further undertaking that amount paid by him shall be adjusted towards the loan he had allegedly taken from the complainant. Complainant agreed to the aforesaid proposal and thereafter, they both went towards Bitthal in the vehicle of the complainant from where Rahul loaded one battery in the car of the complainant. Allegedly, bail petitioner told the victim that somebody is asking to purchase the tipper, but he also requires one driver and as such, both complainant and present bail petitioner firstly went towards Bitthal and thereafter towards Sainj road, however, on the way, an altercation took place between them and allegedly, at about 9:00 PM, accused Rahul and co-accused Vikrant alias

Vicky, who had boarded car at Bitthal, gave blow of sharp-edged knife upon the person of the complainant, as a result thereof, he suffered injuries on his neck as well as face. As per prosecution, complainant stopped the vehicle and thereafter both Rahul and Vikrant alias Vicky gave him beatings. Allegedly, Vikrant gave blow of stone whereas present bail petitioner gave blow of knife. In the meantime, an oil tanker came there and upon seeing the same, Vikrant alias Vicky fled from the spot, whereas both Rahul and Saurav were taken to nearby dhaba by driver of such tanker, from where police took both of them to hospital. In the aforesaid background, FIR came to be lodged against present bail petitioner and co-accused Vikrant alias Vicky, who already stands enlarged on bail vide order dated 12.06.2026 passed by learned Additional Sessions Judge Kinnaur at Rampur Bushahr, whereas present bail petitioner is behind bars for more than three months.

4. Since challan stands filed in competent Court of law and nothing remains to be recovered from the bail petitioner, he has approached this Court for grant of regular bail. While fairly acknowledging factum with regard to filing of challan in the competent Court of law, learned Additional Advocate General states that though nothing remains to be

recovered from the bail petitioner, but keeping in view the gravity of offence alleged to have been committed by him, he does not deserve any leniency. He states that there is overwhelming evidence adduced on record that bail petitioner, who owed some money to the complainant, gave merciless beatings to the complainant, as a result thereof, he suffered serious injuries. Learned Additional Advocate General states that had oil tanker not come on the spot, present bail petitioner with the help and aid of co-accused Vikrant alias Vicky would have killed the complainant. He states that though injuries suffered by the victim have been opined to be simple in nature, but location of the injuries itself suggests that same could be dangerous to the life of the complainant and as such, no illegality can be said to have been committed by Court below while charging the petitioner under Section 109 of BNSS.

5. Having heard learned counsel for the parties and perused material available on record, this Court finds that on the date of alleged incident, some altercation took place inter-se present bail petitioner and Saurav on account of some financial transaction. Record further reveals that present bail petitioner had been working as a driver with complainant Saurav and he owed some money to

complainant. Since present bail petitioner agreed to make payment for the repair of the tipper which was lying parked at Kingal, both decided to meet at Kingal and thereafter, for bringing battery went towards Bitthal. Allegedly, on their way, they had some altercation on account of some financial transaction. Allegedly, present bail petitioner gave blow of knife on the neck and face of the complainant.

6. At this stage, it is apt to take note that present bail petitioner also lodged cross FIR bearing No. 36/2026 at the same police station qua the same incident, alleging therein that complainant Saurav gave him beatings, as a result thereof, he suffered injuries, for which he was taken to Mahatma Gandhi Medical Services Complex (MGMSC), Khaneri, Rampur. Though learned Additional Advocate General stated before this Court that investigating agency is proposing to file cancellation report in the FIR lodged at the behest of present bail petitioner, but he was unable to dispute that in the alleged incident, present bail petitioner had also suffered injuries. Moreover, this Court finds that injuries suffered by the complainant in the alleged incident were opined to be simple in nature, caused by a knife, which is usually used for purpose of cutting vegetables, but since doctor attending upon the complainant, after having seen

location of the injuries, opined that same could be dangerous to the life of the complainant, police proceeded to register case under Section 109 BNSS against petitioner.

7. Since in the case at hand, dispute inter-se both the parties is on account of some financial transactions coupled with the fact that present bail petitioner in FIR lodged by him against the complainant has specifically alleged that complainant owed him some money and he firstly attacked him and in the alleged incident, present bail petitioner also suffered injuries, this Court is of the view that it would be premature to conclude the guilt, if any, of the petitioner, especially under Section 109 BNSS. Provisions of Section 109 BNSS cast an obligation to prove intention and knowledge. Since complainant, to whom present bail petitioner owed some money, had already settled the dispute with him at Kingal after repair of the truck, this Court is persuaded to agree with learned counsel for petitioner that dispute, if any, inter-se complainant and bail petitioner for the payment to be made by the present bail petitioner had come to an end at Kingal, where present bail petitioner had made payment for the repair of the truck of the complainant. It appears that dispute inter se complainant and present bail petitioner arose on account of

amount, if any, payable by the complainant to the present bail petitioner. Both were travelling in one vehicle and throughout the day, they were together, but no untoward incident happened. Unfortunately, in the evening, some altercation took place inter-se complainant and present bail petitioner over demand of money by the present bail petitioner and as such, it would be too early to conclude intention and knowledge, if any, at the behest of the present bail petitioner to cause injury to the complainant which could be dangerous to his life. Aforesaid fact, if any, is required to be established on record by prosecution by leading cogent and convincing evidence. Since considerable time is likely to be consumed in trial, this Court sees no reason to let bail petitioner incarcerate in jail for indefinite period during trial, especially when he has already suffered for more than three months and complainant, who had suffered injuries after being hit by present bail petitioner, has recovered and is out of danger.

8. Hon'ble Apex Court and this Court in a catena of cases have repeatedly held that one is deemed to be innocent, till the time, he/she is proved guilty in accordance with law. In the case at hand, complicity, if any, of the bail petitioner is yet to be established on record by the

investigating agency and if he is left to incarcerate in jail during afore period, it would not only amount to pre-trial conviction, but would also be violative of Section 21 of the Constitution of India. Apprehension expressed by learned Deputy Advocate General, that in the event of being enlarged on bail, bail petitioner may flee from justice or indulge in such offences again, can be best met by putting the bail petitioner to stringent conditions.

9. Needless to say, object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. Otherwise also, normal rule is of bail and not jail. Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

10. Hon'ble Apex Court in Criminal Appeal No. 227/2018, ***Dataram Singh vs. State of Uttar Pradesh & Anr*** decided on 6.2.2018 has held that freedom of an individual cannot be curtailed for indefinite period,

especially when his/her guilt is yet to be proved. It has been further held by the Hon'ble Apex Court in the aforesaid judgment that a person is believed to be innocent until found guilty.

11. Hon'ble Apex Court in ***Sanjay Chandra versus Central Bureau of Investigation (2012)1 Supreme Court Cases 49*** has held that gravity alone cannot be a decisive ground to deny bail, rather competing factors are required to be balanced by the court while exercising its discretion. It has been repeatedly held by the Hon'ble Apex Court that object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative.

12. In ***Manoranjana Sinh alias Gupta versus CBI, (2017) 5 SCC 218***, Hon'ble Apex Court has held that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise also, normal rule is of bail and not jail. Apart from above, Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment, which conviction will entail, character of

the accused, circumstances which are peculiar to the accused involved in that crime.

13. The Apex Court in ***Prasanta Kumar Sarkar versus Ashis Chatterjee and another (2010) 14 SCC 496***, has laid down various principles to be kept in mind, while deciding petition for bail viz. prima facie case, nature and gravity of accusation, punishment involved, apprehension of repetition of offence and witnesses being influenced.

14. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, petitioner has carved out a case for grant of bail, accordingly, the petition is allowed and the petitioner is ordered to be enlarged on bail in aforesaid FIR, subject to his furnishing personal bond in the sum of Rs. 2,00,000/- with two local sureties in the like amount each to the satisfaction of learned trial Court, with following conditions:

- (a) He shall make himself available for the purpose of interrogation, if so required and 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 appropriate application;**
- (b) He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;**
- (c) He shall not make any inducement, threat or promises to any person acquainted with the facts**

of the case so as to dissuade him/her from disclosing such facts to the Court or the Police Officer; and

- (d) He shall not leave the territory of India without the prior permission of the Court.*
- (e) He shall surrender his passport, if any, before the investigating agency.*

15. It is clarified that if the petitioner misuses the liberty or violates any of the conditions imposed upon him, the investigating agency shall be free to move this Court for cancellation of the bail.

16. Any observations made hereinabove shall not be construed to be a reflection on the merits of the case and shall remain confined to the disposal of this application alone. The petition stands accordingly disposed of.

17. A downloaded copy of this order shall be accepted by the learned trial Court, while accepting the bail bonds from the petitioner and in case, said court intends to ascertain the veracity of the downloaded copy of order presented to it, same may be ascertained from the official website of this Court.

(Sandeep Sharma)
Judge

August 24, 2026
(manjit)