

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No. 1620 of 2026

Reserved on: 10.09.2026

Date of decision: 11.09.2026.

Rohit Kumar ...Petitioner.

Versus

State of H.P. ...Respondent.

Coram:

The Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.

*Whether approved for reporting?*¹ Yes

For the petitioner : Mr. Goerge, Advocate.

For the respondent : Mr. Rajpal Thakur, Addl. A.G.

Chirag Bhanu Singh, Judge (oral):

The petitioner has approached this Court under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS'), seeking post arrest bail for having allegedly committed offences, punishable under Sections 137 (2) and 64 (2) M of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'), registered vide FIR No. 21 of 2025 dated 25.08.2025 at Women Police Station Chamba, District Chamba, Himachal Pradesh.

2. Status report has been filed by the respondent-State.

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

3. It is inter-alia averred in the report that the prosecutrix herself had left her home on 27.05.2025 without informing her parents. She had spent entire day with one Pankaj, as she was known to him. The prosecutrix never tried to contact her parents but while she was wandering in Chamba, she met the petitioner/accused, who had allured her for a job in Chandigarh and till the time she stayed in Chandigarh with the petitioner/accused, he had sexually assaulted her.

4. As per prosecution, the prosecutrix remained in Chandigarh till 18.06.2025 and thereafter she had travelled back to Chamba. It was thereafter that the matter came to be reported to the police, when the statement of the prosecutrix has also come to be recorded under Section 183 of the BNSS.

5. It is urged by the learned counsel for the petitioner/accused that there was no medical or scientific evidence on record to corroborate the version of the victim. The statement of the prosecutrix herself is not reliable and trustworthy. The challan already stands filed and the trial has commenced on 25.07.2025. It has further been averred that out of total 35 witnesses, only the prosecutrix has been examined till now, though a period of 14 months has elapsed. The statement of the prosecutrix has been recorded, while appearing as PW-1, and

there are no chances of the petitioner/accused winning over the material witnesses.

6. The petitioner/accused had been arrested on 26.06.2025 and he has been under incarceration for more than 14 months. The case has now been listed for recording of the remaining evidence of the prosecution on 30.09.2026. The petitioner has no criminal antecedents or criminal background. The petitioner is ready and willing to abide by all the conditions imposed by this Court. As substantial time is likely to be taken for examining the remaining witnesses of the prosecution, the petitioner be released on bail.

7. Per contra, Mr. Rajpal Thakur, the learned Additional Advocate General would contend that the prosecutrix was a minor at the time of occurrence, she had been allured by the petitioner/accused and thereafter sexually abused and assaulted. The trial is progressing at a good pace and there is no undue delay in the proceedings before the learned trial Court. The discretion of bail, thus, cannot be exercised at this stage.

8. I have heard learned counsel for the parties and gone through the record.

9. Perusal of the status report and the record is suggestive of the fact that the prosecutrix had left her home on

27.05.2025. Her disappearance was reported by her parents on 28.05.2025. On verification of the CCTV footages on 29.05.2025, it was noticed that the prosecutrix had left with an unknown person from the New Bus Stand at Chamba in Rajindra bus. During investigation, it had been noticed that the petitioner/accused had been staying in one of the home-stays near the Old Bus Stand, Chamba and his name and parentage had been verified on the basis of the Aadhar Card found in the said home-stay. On 19.06.2025, the prosecutrix herself had made a call from the mobile phone of some unknown person and informed her mother that she was in Chandigarh and was proceeding towards Chamba in an HRTC bus. While on her way back, she was apprehended at a place known as Kandhu and subsequently the FIR came to be registered.

10. It thus comes to the fore that the prosecutrix had stayed with the petitioner/accused for almost 22-23 days in Chandigarh. However, as per the record, the date of birth of the prosecutrix is 23.05.2009 and as such, she was around 16 years of age at the time of occurrence. She was thus, admittedly, below the age of exercising discretion, being a minor.

11. It further transpires from the record that the challan already stands filed on 25.07.2025 and the prosecutrix has also

been examined as PW-1 on 23.05.2026.

12. It was thus vociferously urged by the learned counsel for the petitioner/accused that the prosecutrix had accompanied the petitioner/accused of her own free will and volition. The accused has been incarcerated for the last 14 months and the trial is likely to take substantial time. There is unwarranted delay in the progress of the trial and as such, the discretion of bail can and should be exercised in his favour.

13. The investigatory record clearly shows that the date of birth of the prosecutrix is 23.05.2009. She was thus 16 years of age at the time of occurrence. The factum of consent thus would not be of much avail in the facts and circumstances of the present case at least at this stage. No doubt, the statement of the prosecutrix has already been recorded by the Court, but the other material witnesses are still to be examined. It is also not the case that the prosecutrix has resiled from her earlier statement. The trial has been listed for recording the statements of remaining prosecution witnesses on 30.09.2026. There is nothing on record to show that there are glaring discrepancies in the statement of the prosecutrix, so recorded before the learned trial Court as had been urged. Even otherwise, once the trial has commenced and is progressing, in matters concerning serious offences like rape, murder and

dacoity etc., the Court should indeed be loath in entertaining bail applications and that too at the inception of the trial itself. It is also worthwhile to note that there is nothing on record to remotely suggest that the trial is getting unduly delayed.

In this behalf, support can aptly be drawn from a recent judgment of the Hon'ble Supreme Court rendered in **X vs. State of Rajasthan, MANU/SC/1267/2024**. It may be apt to reproduce the following paragraphs of the aforesaid judgment, which reads thus:-

“14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only

in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.”

14. Much was also tried to be urged that the trial has been lingering on for more than 14 months. It, however, seems that the statement of the prosecutrix has already been recorded and the matter has been listed for the remaining evidence of the prosecution on 30.09.2026. No doubt, in **Union of India vs. K.A. Najeeb (2021) 3 SCC 713**, the Hon'ble Supreme Court held that when a timely trial is not possible and the accused has suffered incarceration for a significant period of time, the Courts would ordinarily be obligated to enlarge the accused on bail but it was a case where the petitioner had been in custody for more than five years and the trial has not even commenced. In the case in hand, the prosecutrix already stands examined and the trial already stands fixed for the remaining evidence of the prosecutrix. It is thus cannot be said that the trial has been unnecessarily or inordinately delayed.

15. Thus seeing to the totality of circumstances discussed above and the nature of allegations, it cannot also be said that the trial has been inordinately delayed. The evidence of the prosecution has already begun. It would thus not be conducive to exercise the discretion of bail, atleast at this stage,

as it may have prejudicial consequences for the prosecution.

16. The bail petition is thus dismissed. However, the learned trial Court is directed to ensure that the witnesses are examined post-haste and an endeavour be made to list the trial on day-to-day basis, subject to the convenience and docket of the Court.

17. The petition is disposed off accordingly.

(Chirag Bhanu Singh)
Judge

11th September, 2026.
(kck)