

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No. 1651 of 2026

Date of decision: 10.09.2026.

Shiva ...Petitioner.

Versus

State of H.P. & another ...Respondents.

Coram:

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

Whether approved for reporting?¹

For the petitioner : Mr. Subhash Chander, Advocate.

For the respondent : Mr. Lokender Kutlehria, Addl. A.G.,
for respondent No.1.

Chirag Bhanu Singh, Judge (oral):

The present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS'), has been filed, seeking post arrest bail for having committed offences, punishable under Sections 109, 118 (2), 126 (2) and 115(2) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS', registered vide FIR No. 133 of 2025 dated 19.12.2025 at Police Station Dhanotu, District Mandi, Himachal Pradesh.

2. A perusal of the status report filed by the prosecution is suggestive of the fact that on 18.12.2025, a telephonic information had been received from the Medical College at Nerchowk that one Aakash son of Sh. Sher Singh

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

had been brought to the hospital in an injured condition. On the basis of the aforesaid information, ASI Shyam Lal was dispatched to the hospital along with a police team. On the basis of the statement made by the injured under Section 173 of the BNSS, the present FIR had come to be registered.

3. As per the recital of the FIR itself, the accused, Shiva (present petitioner), who was constructing his house, had entered into an altercation with the injured who happened to be his real brother and that too on the basis of some trivial fight between their children. Somehow, their wives also entered into the altercation at 8.00 P.M. The sister-in-law, (*Bhabhi*) of the victim i.e. the wife of the accused/petitioner had started misbehaving with him and in that process, the accused Shiva had inflicted two stab injuries to the injured.

4. In pursuance to the aforesaid FIR, the petitioner came to be arrested on 06.02.2026 and he is presently in judicial custody.

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

6. Admittedly, the victim Aakash had sustained two stab injuries, one being a stab wound 2.5 cm in the right lumbar region and a stab wound 3.5 cm on the right shoulder. However, as per the MLC, the doctor has opined that though

the injuries were included under grievous hurt but the injuries could have been life threatening. The doctor has thereafter further opined that any hurt endangering life and leading to severe bodily pain for 20 days is considered life threatening.

7. The learned counsel for the parties have fairly submitted that the victim had been hospitalized only for a period of two days. In case the opinion of the doctor is considered holistically, it is clear that the injuries *per-se* could only be termed to be grievous in nature, since it did not entail severe bodily pain for 20 days, as has been itself opined by the doctor.

8. Adverting to the other aspect of it, it transpires from record that both the victim and the accused/petitioner are real brothers. The altercation, between them had however unfortunately turned hostile, resulting in grievous injuries to one of them. The record further shows that not only the investigations are complete but even the charge-sheet stands filed. It is stated at the Bar that the matter has been listed for fixing the date of prosecution evidence on 24.09.2026. It is thus apparent that the trial is likely to take substantial time. The nature of injuries on record also shows that the assault cannot be termed to be murderous. The victim survived with minor stab injuries and that too on the shoulder and the

lumbar region, which at best can be termed to be only grievous in nature.

9. The golden thread which runs through the decision of the Hon'ble Supreme Court is bail and not jail is still being followed right from ***Gurbaksh Singh Sibbia & another. vs. State of Punjab (1980) 2 SCC 565*** till ***Dataram Singh vs. State of U.P. & another (2018) SCC 22***. Even otherwise, the trial is likely to take time. The incarceration of the petitioner otherwise is not going to serve the cause of the prosecution in any manner.

10. Seeing the totality of the circumstances discussed hereinabove and keeping in view the nature of injuries sustained by the victim and the gravity of the offence, the petitioner/accused is indeed entitled to the discretion of bail.

As a sequel thereto, the bail petition is allowed. The petitioner is ordered to be released on bail, subject to his furnishing bail bonds in the sum of Rs. 25,000/- with one surety in the like amount to the satisfaction of the learned trial Court. The bail shall, however, be subject to the following conditions:-

- (i) The petitioner shall regularly attend the trial.

- (ii) The petitioner shall not tamper with the prosecution evidence in any manner nor hamper the investigation, if any.
- (iii) The petitioner shall not make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade them from disclosing such facts to the Court.
- (iv) The petitioner shall not leave the territory of India without the express permission of the Court.
- (v) The petitioner shall not indulge in any similar activity again.

11. The observations made hereinabove shall not prejudice the party on the merits of the case, whatsoever.

12. The petition stands disposed of in the aforesaid terms.

(Chirag Bhanu Singh)
Judge

10th September, 2026.
(kck)