

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

Cr.MP(M) No.1677 of 2026

Reserved on : 01.10.2026

Decided on : 06.10.2026

Uploaded on : 06.10.2026

Prabhjot Singh Hans

...Petitioner

Versus

State of H.P.

.....Respondent

Coram:

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

Whether approved for reporting? Yes ¹

For the Petitioner : Mr. Ajay Kochhar, Senior Advocate,
with M/s Ravi Tanta & Shakti
Bhardwaj, Advocates.

For the Respondent : Mr. Lokender Kutlehria, Additional
Advocate General, for the
respondent/ State.

M/s Ajay Sipahiya & Tarun Mehta,
Advocates, for the complainant.

Chirag Bhanu Singh, Judge

The petitioner has preferred the present present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the 'BNSS'), seeking post arrest bail for having allegedly committed an offences punishable under Section 75 of Bharatiya Nyaya Sanhita (hereinafter referred to as the 'BNS') and Section 12 of the

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

Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the 'POCSO Act') registered vide FIR No.68 of 2026, dated 05.06.2026, at Police Station Parwanoo, District Solan, H.P.

2. The status report stands filed by the State. The facts, which can be culled out from the report is that FIR No.001, dated 24.05.2026, was registered under Section 75 of BNS and Section 12 of POCSO Act, having been received from Women Police Station, Ludhiana vide an application No.842, dated 03.03.2026 having been received on behalf of Prabhjot Singh Hans (petitioner) son of late Shri Hari Singh and Satwant Kaur wife of Shri Hari Singh, addressed to the Commissioner of Police, Ludhiana, seeking cancellation of FIR No.108, dated 25.11.2025, and the proceedings under Section 12 of the POCSO Act, dated 01.12.2025.

3. The text and tenor of the application seeking cancellation of FIR No.108 was that the said FIR had been registered against him and his family members on false, baseless and motivated grounds, because of a matrimonial discord between him and his wife. No demand of dowry had ever been made. No evidence regarding criminal intimidation

of the complainant, who happens to be the wife of the petitioner has been placed on record. For the last 12 years of their marriage, no complaint of physical violence had ever been made to the police, panchayat or any medical authority. The alleged incident is stated to have occurred on 19.04.2025 and the complaint had been lodged after an unexplained delay of more than six months. The photographs submitted by the complainant depict a normal, cordial and affectionate father-daughter relationship, which directly contradicts the allegations made against the petitioner.

4. It was thus requested that FIR No.108, dated 25.11.2025, be cancelled.

5. It was alleged by the complainant in FIR 108 of 2025 that on 19.04.2025, when she had gone with her husband (petitioner) and her children to Timber Trail Hotel, the petitioner had inappropriately touched her daughter and the petitioner had also expressed his regret for having done so. The Investigating Officer came to the conclusion that a case under Sections 115(2) 316(2), 85, 75 & 35(2) of BNS was made out against the petitioner accused-Prabhjot Singh and her mother Satwant Kaur. The Investigating Officer had sought

the legal opinion from the District Attorney, (Legal), Ludhiana, who had opined that since the occurrence related to Himachal Pradesh and the matter was required to be investigated by the Himachal Pradesh Police for the offences punishable under Section 75 of BNS and Section 12 of POCSO Act. It was in pursuance thereto that the police had registered the present FIR, in Police Station Parwanno.

6. During the course of investigation, Investigating Officer had recorded the statement of the prosecutrix, the daughter of the petitioner and complainant, her mother. The daughter of the petitioner had identified the room at Timber Trail. The statement of the child came to be recorded under Section 183 of BNSS. The petitioner came to be arrested on 14.06.2026 and presently, he is in judicial custody.

7. After completion of investigation, the police has already filed the charge sheet on 31.07.2026, before the learned POCSO Court at Solan.

8. The complainant has also filed reply. While contesting the bail application, the complainant has, inter-alia, raised preliminary objections that the bail petition deserves rejection, because it seeks to isolate FIR No.68 of

2026 from the criminal proceedings out of which, it was borne and thereby presents an artificially truncated bail history, as the occurrence forms an integral part of FIR No.108 of 2025, registered on 25.11.2025 at Women Police Station, Ludhiana. It was on the basis of the statement of the child that Section 12 of POCSO Act came to be added in FIR No.108 of 2025, dated 25.11.2025.

9. It was further averred that it was precisely for this reason that the petitioner's anticipatory bail was rejected by the learned Additional Sessions Judge/Fast Track Special Court under the POCSO Act at Ludhiana on 19.12.2025 and thereafter by the Hon'ble Punjab and Haryana High Court on 23.12.2025 and consequently the anticipatory bail had been declined to the petitioner. The law relating to successive bail applications, thus, demands judicial discipline and cannot be revisited. The enlargement of the accused on bail is likely to be influenced to the witnesses calling through the victim and it may prove little to be fair trial. It is also averred that the provisions of the POCSO Act, more particularly under Section 29 requires the Court to draw a statutory presumption prescribed therein, unless rebutted in accordance with law.

The FIR No.108 cannot be said to be deleterious response to FIR No.257.

10. On merits, the averments in the bail petition were denied. It was however averred that the statement of the child made before the police and the Court made out a case under Section 75 of BNS and Sections 10 and 12 of POCSO Act and the petitioner had been arrested on 14.06.2026, after a substantial preceding history of rejected anticipatory bail proceedings and coercive process. The four warrants had been issued in connection with FIR No.108, to procure his presence. The matrimonial and custody disputes cannot erase the repeated independent statutory statements made by the minor child. It is admitted that FIR No.257, dated 14.11.2025 had come to be registered at Police Station City Jagraon, on the complaint of the petitioner's mother against the complainant and her family. The insinuation to the said FIR were however, specifically denied. Rest of the averments in the petition were denied.

11. I have heard learned counsel appearing for the parties and gone through the record meticulously.

12. The learned counsel appearing for the petitioner would contend that the charge sheet in the present case stands filed, on the basis of FIR No.68 of 2026. It was based upon the representation made by the petitioner seeking cancellation of FIR No.108, dated 25.11.2025. The petitioner himself stated in his representation that the alleged incident had occurred on 19.04.2025, whereas, the complainant had lodged the complaint after unexplained delay of more than six months. The original FIR did not contain any allegations regarding POCSO. It was further contended by the learned counsel for the petitioner that both the husband and wife had a long standing marital dispute between themselves, including the custody of the children. As far back as on 08.04.2025, the petitioner had sent an e-mail requesting a lookout circular in respect of his children i.e. son and the daughter. On 08.05.2025, he had even made a request to flag their passports as his wife may take the children out of the Country without his permission.

13. On 08.07.2025, likewise the petitioner had approached the school requesting them not to issue the school leaving certificates without his permission. The learned

counsel for the petitioner would further contend that on 05.09.2025, the petitioner had filed a writ petition for Habeas Corpus (Annexure P-2), expressing apprehensions that his wife may not leave the Country along with his children. The respondent/State had filed a reply through the Deputy Superintendent of Police and even the complainant (wife) had filed reply to the aforesaid petition, but neither the State nor, the complainant had stated anything regarding the alleged sexual harassment on 19.04.2025.

14. The learned counsel appearing for the petitioner would further contend that on 14.11.2025, the mother of the petitioner had got registered FIR, against the complainant, vide FIR No.257 of 2025, at Police Station City Jagraon, under the provisions of Sections 296, 351(2)(3)(i) of the BNS, 2023 and it was after the said FIR that as a counter blast the complainant had got registered FIR No.108 of 2025, dated 25.11.2025.

15. Per the learned counsel appearing for the petitioner at no stage of the proceedings, the wife of the petitioner had wrecked up the issue regarding the sexual harassment allegedly committed on 19.04.2025 at Hotel, Timber Trail. It

clearly shows that the complaint was made with a malafide intent. The provisions of the POCSO Act has been misused by the wife because of long drawn matrimonial and custody disputes between them and the allegations of sexual abuse were totally baseless and same is evident from the fact that till 25.11.2025, she had never talked about the same in any of the proceedings.

16. Per contra, the learned Additional Advocate General, would strenuously urged that the statement of the child recorded by the police and before the learned Magistrate clearly shows that the victim had been sexually assaulted/harassed and seeing to the relation between the child and the petitioner the discretion of bail may not be exercised in his favour.

17. Learned counsel appearing for the complainant while supporting the contentions of the learned Additional Advocate General would further contend that successive bail petitions preferred by the petitioner stand dismissed. The child victim has got recorded her statement even before the police and the Court at Ludhiana and she has reiterated the allegations, even before the police in Parwanoo and the learned

Magistrate in Kasauli. Seeing to the abominable conduct of the petitioner, the discretion of bail may not be exercised in his favour.

18. During the course of arguments, the learned counsel for the petitioner had placed reliance on recent judgments of the Hon'ble Supreme Court, in case titled as **Ishwar Chand Sharma and others versus State of Uttar Pradesh & another, Special Leave Petition (Crl.) No. 18035 of 2025**, decided on **29.05.2026** to contend that a worrying trend had cropped up, where the parties involved in matrimonial relationships were resorting to filing frivolous and vexatious claims and allegations of criminal nature to settle personal scores and grudges against each other and therefore, turn to nefarious/oblique means to attain their objectives with the sole motive to retaliate and exact revenge, which is carried out due to sheer hatred and disdain harboured by the spouses.

19. The learned counsel appearing for the petitioner also referred to the observations of the Hon'ble Supreme Court in the aforesaid judgments, which reads thus.

“9.4. In this regard, we would be remiss to not highlight the recent upswing in the false and frivolous matrimonial cases which have unfortunately brought to the fore the uglier side of litigation. A recent trend in this regard is when the wife resorts to filing false complaints and cases under POCSO Act, alleging that the husband, who is also the father of the minor child, has committed wanton acts which are sexual in nature especially against the minor daughter. At the centre of this sort of litigation is a child who is often used by her mother against her father, against her will and wishes, so as to make false and vexatious complaints against her father and other male members of her paternal family in order to exact revenge or as an arm-twisting tactic to obtain a higher monetary settlement or to simply harass.”

20. While referring to the provisions of Sections 29 and 30 of the POCSO Act, which creates a statutory presumption and raises a presumption, as to certain offences against the accused, who is prosecuted for committing or abetting crimes under the Act, the learned counsel further placed a strong reliance upon a judgment, in case titled as **Deepak IN JC versus State Govt. of NCT Delhi, Special Leave Petition (Crl.) Nos.21271-72 of 2025**, decided on **17.09.2026** to contend that the statutory presumptions cannot be read to mean that a prosecution version is liable to be treated, as gospel truth in every case. The Courts are not absolved from discharging their essential duty to analyse the evidence on record in light of the features emerging in a particular case.

The presumption of commission of offence or the presumption of culpable mental state are rebuttal presumptions in law, as has also been held in the aforesaid judgments referred by him.

21. The perusal of the record thus show that the accused petitioner and his wife, the complainant are embroiled in litigation since long. The sexual harassment is alleged to have been taken place on 19.04.2025 at Hotel Timber Trail, Parwanoo. Even prior to the said occurrence, the petitioner had expressed apprehension that his wife (complainant) may take his children out of the Country and as such, he sought a lookout circular on 08.04.2025, followed by a request for flagging the passport of minor child on 08.05.2025. On 08.07.2025, he had approached the school authority not to issue their school leaving certificates. Eventually, a petition for Habeas Corpus had been filed by the petitioner on 05.09.2025. The State and the complainant had filed their replies to the said writ petition, where admittedly nothing was averred by the complainant or the State that some sexual harassment had been meted out by the accused-petitioner. There is not a whisper regarding the sexual harassment or any

allegations in this behalf, even in the reply filed to the Habeas Corpus petition.

22. Admittedly, the charge sheet already stands filed before the learned Court at Solan on 14.06.2026. The investigations in the case are thus, complete. The statement of the victim has been recorded not once or twice but four times. It also stands recorded before the learned Magistrate.

23. No doubt the earlier applications for anticipatory bail preferred by the petitioner had been dismissed, but they were all anticipatory bail applications, which had come to be filed during the investigatory stage.

24. By now, it is fairly well settled that consideration governing the grant of anticipatory bails are materially different from those of a regular bail applications. The situation in which the question of granting or refusing the bail would arise, will materially and substantially differ from each other including relevant considerations on which the Court would exercise its discretion, one way or the other, are also substantial different from each other.

25. It would be apposite to reproduce the decision of the Constitutional Bench in **Gurbaksh Singh Sibbia & Others**

versus State of Punjab, (1980) 2 Supreme Court Cases 565,
as has been reported in **Pokar Ram versus State of Rajasthan and others, (1985) 2 Supreme Court Cases 597.**

The relevant paragraph-6 of the judgment (Pokar Ram's Case) is reproduced as under:-

"6. The decision of the Constitutional Bench in [Gurbaksh Singh Sibbia & Ors. v. State of Punjab](#)(1) clearly lays down that 'the distinction between an ordinary order of bail and an order of anticipatory bail is that whereas the former is granted after arrest and there fore means release from the custody of the police, the latter is granted in anticipation of arrest and is therefore effective at the very moment of arrest.' Unlike a post-arrest order of bail, it is a pre-arrest legal process which directs that if the person in whose favour it is issued is thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail. direction under [Sec. 438](#) is intended to confer conditional immunity from the touch as envisaged by [Sec. 46 \(1\)](#) or confinement. In para 31, Chandrachud, CJ clearly demarcated the distinction between the relevant considerations while examining an application for anticipatory bail and an application for bail after arrest in the course of investigation, Says the learned Chief Justice that 'in regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the appellant on bail in the event of his arrest' would generally be made. It was observed that 'it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond.' Some of the relevant considerations which govern the discretion, noticed therein are the nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension. that witnesses will be tampered with and "the larger interests of the public or the State", are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail.' caution was voiced that 'in the evaluation of the consideration whether the applicant is likely to abscond, there can be no presumption that the wealthy and the mighty will submit themselves to trial and that the humble and the poor will run away from the course of justice, and more than there can be a presumption that the

former are not likely to commit a crime and the latter are more likely to commit it.”

26. Having considered the nature of allegations made by the daughter of the petitioner and keeping in view the cantankerous relationships between the petitioner and his wife, the delay in reporting the matter, the version being coloured, exaggerated and embellished could not be ruled out. The accused being the father, if the allegations made are true, for him except for repentance, which shall hound him his entire life, would also be a disgrace to live with.

27. Nonetheless, the statement of the victim has already been recorded not only by the IO, but even by the learned Magistrate.

28. The accused is stated to have indulged in the said act in an inebriated condition, he is stated to have harassed the victim, his daughter and thereafter sought an apology. Undoubtedly the act was disdainful, incomprehensible and inscrutable and the fact remains that the charge sheet stands filed.

26. It is further clear from the record that the accused petitioner has been residing with his family separately from his wife and children. The wife is apparently residing in her parental house along with children and even otherwise, since 19.04.2025, the victim had been residing with the accused petitioner and was in constant touch with him before filing of the present FIR. The subsequent photographs on record after 19.04.2025 till almost July, 2025 are not suggestive of any antagonistic or hostile animus between the victim and the accused. No rancour is visible in the photographs even in July, 2025.

29. Thus, keeping in view of the cantankerous litigation between the accused and his wife it cannot be ruled out that the present case was fuelled because of their acrimonious relations, resulting in wanton and unwarranted accusation against the father. Malafide, exaggerations and embellishments thus cannot be ruled out, more particularly keeping in mind the delay occasioned in making the complaint.

30. The complaint having been made for settling personal scores by the wife and misuse of the provisions of POCSO cannot thus be ruled out completely. Generally the Courts would be circumspect and would tread with care and caution in such cases, but while releasing the petitioner on bail he may be put to strict terms while doing so.

31. The Hon'ble Supreme Court in two recent judgments titled as **Ishwar Chand Sharma and others versus State of Uttar Pradesh and another, Special Leave Petition (Crl.) No.18035 of 2025, dated 29.05.2026**, has cautioned the Courts of the recent upswing in the false and frivolous matrimonial cases, which have brought to the fore the uglier side of litigation, noting that in recent times, a recent trend in this regard was when the wife resorts to filing of false and vexatious complaints and cases under the POCSO Act, alleging that the husband, who is also the father of the minor child had committed acts which are sexual in nature. The said false and vexatious complaints were made against the father and his family in order to exert revenge or as an arm twisting tactics to obtain higher monetary settlement or to simply

harass. A similar view had been highlighted in '**R' versus 'E' & Anr., too (Civil Appeal No.13119 of 2026, dated 24.09.2026).**

32. Thus seeing to be totality of circumstances emerging on record and keeping in view the fact that the trial is likely to take time, keeping in view the nature of allegations and the relationship between the victim and the accused, it would be apposite to exercise the discretion of bail in favour of the petitioner though subject to strict terms. The petition, is thus allowed. As a sequel, the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the tune of Rs.1,00,000/- with two sureties of the like amount, one of them being a local surety to the satisfaction of the learned trial Court, subject to the following conditions:-

"i) That the petitioner shall not tamper with the prosecution evidence nor intimidate, threaten or coerce the witnesses conversant with the facts of the case;

ii) That the petitioner shall put in appearance before the Investigating Officer or the Court as and when directed;

iii) That the petitioner shall not leave the territory of India without the express permission of the Court, he shall surrender passport, if any, before the investigating agency;

iv) The petitioner shall not either approach the victim or her mother nor he shall try to meet the victim till her statement is recorded by the learned trial Court and thereafter, with the express permission of the Court.

33. The observations, made hereinabove, shall not be taken, as an expression of opinion, on the merits of the case, as these observations are confined only for the purposes of the disposal of the present petition.

34. The petition stands accordingly disposed of. A copy of this order be sent to the Superintendent, Sub Jail Solan, District Solan, H.P. and the learned Trial Court by FASTER.

35. Petition stands disposed off in the aforesaid terms, so also the pending miscellaneous applications, if any.

(Chirag Bhanu Singh)
Judge

October 06, 2026
(subhash sharma)

RITU
RANI

Digitally signed
by RITU RANI

Date:
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