

(2026:HHC:42795)

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

**Cr.MP(M) No. 1818 of 2026
Decided on 29th September, 2026**

Ram Lal

...Petitioner

Versus

State of HP

.....Respondent

Coram

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

¹Whether approved for reporting? No

For the petitioner : Mr. Manoj Pathak, Senior Advocate, with Mr. Parth Sagar, Mr. Vishal Thakur & Mr. Sanidhya, Advocates.

**For the respondent/State : Mr. Lokender Kutlehria, Additional Advocate General.
ASI Sanjeev Kumar, P.S. Reckong Peo, District Kinnaur, HP.**

Chirag Bhanu Singh, Judge (oral)

The petitioner has preferred an application seeking anticipatory bail invoking jurisdiction of this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS") registered vide FIR No. 45 of 2026, on 05.08.2026 under

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

Section 64(1) of Bharatiya Nyaya Sanhita (in short 'BNS') and Sections 4(1) & 18 of Protection of Children from Sexual Offences Act (in short 'POCSO'), at Police Station Reckong Peo, District Kinnaur (HP).

2. The perusal of the status report filed by the prosecution is suggestive of the fact that on 04.08.2026 one Dr. Sunil Dutt, MO, MGMSC, Khaneri, Rampur, District Shimla had informed the SHO, Reckong Peo that one Chander Mani, w/o Narender Mani, VPO Duni, Tehsil Kapla, District Kinnaur, HP was admitted in the labour room. On verification of her Aadhar Card, she was found to be 17 years old. She has delivered a baby boy weighing 2.585 Kgs on 05.08.2026, at about 3:05 AM. The patient and the baby are stable and doing well.

3. Based on the aforesaid information, the FIR came to be registered under the provisions of POCSO Act. During the course of investigation, Dhani Bhaag, who happens to be the mother-in-law of the prosecutrix, appeared before the doctor and categorically submitted that she does not want to get her daughter-in-law (i.e. the prosecutrix), to be medically examined. However, samples for DNA profiling have been drawn by the doctor.

4. Even as per the records found in the hospital, the accused was reported to be the husband of the prosecutrix. It further transpires that the prosecutrix and the accused-Narender Kumar, are married and the prosecutrix had gone to deliver a child in the hospital on 04.08.2026, it is when the present FIR came to be registered.

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

6. Undisputedly, both the victim/prosecutrix and the accused-Narender Kumar are married. They have also been blessed with a child. As per the record, fortunately, the accused was major at the time of his marriage. The DNA report received has also categorically confirmed that the accused happens to be the biological father of the newborn baby, delivered by the prosecutrix.

7. Seemingly, the FIR came to be registered mainly on the basis of a report submitted by the doctor. The accused having married a minor, at best entailed action against him only under the provisions of The Prohibition of Child Marriage Act, 2006. However, under what circumstances the POCSO Act came to be attracted is hard to fathom. The doctor had only reported that the prosecutrix,

who was less than 17 years old had delivered a baby boy. The bare perusal of the report filed by the doctor does not remotely suggest that an offense under the POCSO Act had been reported by the doctor or the prosecutrix had disclosed anything about such offence having been committed by petitioner or someone.

8. Nonetheless, apparently keeping in view the provisions of Sections 19 and 21 of the POCSO Act, the doctor had reported the matter that the victim, who had come to deliver a child was below 18 years. He just informed the police. It apparently resulted in the registration of the present FIR.

9. No doubt Section 19 of the POCSO Act, *inter alia*, provides that an offense committed under this Act shall be informed to the Special Juvenile Police Unit or the local police, and any person, who fails to report the commission of an offense under Sub-section (1) of Section 19 has been held liable for punishment, but that in any eventuality, would not mean that a person, who has come to deliver a child, if she happens to be a minor, would in itself constitute an offense at least under the POCSO Act.

10. It would be apposite to reproduce Section 19 of the Act, which reads thus;

“19.Reporting of offences.—(1)Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) any person (including the child), who has apprehension that an offence under this Act is likely to be committed or has knowledge that such an offence has been committed, he shall provide such information to,—

(a)the Special Juvenile Police Unit; or

(b)the local police.

(2)Every report given under sub-section (1) shall be—

(a)ascribed an entry number and recorded in writing;

(b)be read over to the informant;

(c)shall be entered in a book to be kept by the Police Unit.

(3)Where the report under sub-section (1) is given by a child, the same shall be recorded under sub-section (2) in a simple language so that the child understands contents being recorded.

(4)In case contents are being recorded in the language not understood by the child or wherever it is deemed necessary, a translator or an interpreter, having such qualifications, experience and on payment of such fees as may be prescribed, shall be provided to the child if he fails to understand the same.

(5)Where the Special Juvenile Police Unit or local police

is satisfied that the child against whom an offence has been committed is in need of care and protection, then, it shall, after recording the reasons in writing, make immediate arrangement to give him such care and protection including admitting the child into shelter home or to the nearest hospital within twenty-four hours of the report, as may be prescribed.

(6)The Special Juvenile Police Unit or local police shall, without unnecessary delay but within a period of twenty-four hours, report the matter to the Child Welfare Committee and the Special Court or where no Special Court has been designated, to the Court of Session, including need of the child for care and protection and steps taken in this regard.

(7)No person shall incur any liability, whether civil or criminal, for giving the information in good faith for the purpose of sub-section (1)."

11. The bare reading of the Section would suggest that what has to be reported is the apprehension of an offence or an offence having been committed under the Act, or a person, who had knowledge that such an offence has been committed under the Act. Sub-section (3) of Section 19 clearly provides that where a report under Sub-section (1) is given by a child, the same shall be recorded under Sub-section (2) in a simple language, so that even

the child understands the content of the same.

12. It is thus crystal clear that non-reporting would become an offense only if a sexual assault in any form is reported by the child and despite reporting an assault, if the doctor or any other person, who has knowledge of the same fails to inform the police, would result in the invocation of the provisions of Sections 19 and 21 of the Act. The legislature never intended it to mean that a minor, who has gone to deliver a child, should be charged under the provisions of the POCSO Act.

13. It would be a travesty of justice if a person who has gone to get his child delivered is arrested for an offence under POCSO, even if his wife is a minor. It could not have been the intention of the legislature, and nor it is. Section 19 of the POCSO itself suggests that the victim has to report a sexual offence and it is only if reported and the doctor or the person informed does not respond, the provisions of Section 19 come into play. Even in the case at hand, the alleged victim (the wife) of the accused had not reported any offence under the Act to the doctor. The doctor's thus reporting to the police that a minor had been admitted for delivering a child, could not have *per se* attracted the provisions of the

POCSO Act. At best the accused husband could have been prosecuted under the provisions of The Prohibition of Child Marriage Act, 2006. Section 9 of the said Act having the penal Section, thereof.

14. The intent and the purpose behind Section 19 of the POCSO Act only is that the sexual offences against minors don't go unreported.

15. The distinction can be gauged from the provisions of Section 19 itself. The bare reading of sub-clause (1) to (3) clearly demonstrates that it is only when a sexual assault on a minor goes unreported, that Section 19 comes into play. It is not meant for a situation where a married minor has gone to deliver a child. At best, in the aforesaid circumstances only the provisions of, The Prohibition of Child Marriage Act, 2006, could have been invoked by the police.

16. The present petitioner happens to be the father-in-law of the victim, the father of the accused, and the grandfather of the newborn child. There is nothing on record to remotely show that she had ever conspired with the accused. The FIR also does not mention that she was in any way complicit in the offense. The

marriage also is stated to have been a love marriage.

17. Thus, seeing to the totality of circumstances discussed hereinabove, the present petition is allowed. As a sequel, the interim order dated 14.09.2026 is made absolute. The petition stands disposed off accordingly.

29th September, 2026
(Ritu)

(Chirag Bhanu Singh)
Judge