IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 2400 of 2025
Reserved on: 09.10.2025
Date of Decision: 17.10.2025.

Harshita Aggarwal ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] ***No.***

For the Petitioner : Mr K.S. Gill, Advocate.

For the Respondent : Mr Jitender Sharma, Additional Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking regular bail in FIR No.86/2025, dated 30.05.2025, registered at Police Station Kala Amb, District Sirmour, H.P., for the commission of offences punishable under Sections 103(1), 109, 117(2) and 238 read with Section 3(5) of Bhartiya Nyaya Sanhita (BNS) and Section 181 of Motor Vehicle Act (MV Act).

---

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

2025:HHC:35178

2. It has been asserted that, as per the prosecution, the informant told the police on 30.05.2025 that his son Jitender was found injured and was being taken to the hospital. He expressed the suspicion that Jitender was assaulted and thrown off the road. The injured succumbed to his injuries at Ojas Hospital, Panchkula, on 02.06.2025. As per the autopsy report, the cause of death was cranio-cerebral damage due to head injury. As per the confessional statement made by Manish Arora, Jitender Singh was murdered because of the suspicion that he had committed a wrong act with the petitioner. Manish Arora purchased three beers, opened one and secretly added sleeping pills to it before giving it to the victim. The victim was taken to a secluded spot. The petitioner was dropped off on the way, and Manish Arora assaulted the victim with a baseball bat. He threw the victim into a gorge. Manish Arora and the petitioner fled away from the spot. Manish Arora also used the victim's mobile phone for the payment of ₹1500/- at a petrol pump. The petitioner was present with the co-accused throughout the night of the incident. She has been named a co-conspirator. The confession made by the co-accused is inadmissible in evidence. The petitioner was not present with the co-accused as per the confession. The petitioner

has been in judicial custody since 07.06.2025. The grounds of arrest were not supplied to her. The petitioner belongs to a respectable family, and no fruitful purpose would be served by detaining her in custody. She would abide by the terms and conditions which the Court may impose. Hence, the petition.

3. The petition is opposed by filing a status report asserting that the informant made a complaint to the police that the victim Jitender Singh had left his home in his vehicle bearing registration No. HR79 2777. Subsequently, the informant discovered that the victim was thrown off the road. The victim was found in an injured condition without his vehicle or phone. The police registered the FIR. The victim, Jatinder, subsequently succumbed to his injuries. The police found a broken baseball bat and surgical gloves at the spot. The police checked the CCTV footage and found a white vehicle going towards Palion at about 4:14 a.m. and returning at 4:54 a.m. The informant suspected the involvement of Manish Arora. The police searched for Manish Arora, but he was found missing. As per the autopsy report, the cause of death was cranio-cerebral damage due to head injury, which was sufficient to cause death in the ordinary course of nature. The police arrested Manish Arora, who disclosed that he

had purchased three bottles of beer. He put the sleeping pills in one bottle and handed it over to the victim. The petitioner and Manish Arora took the victim in a vehicle. The co-accused dropped the petitioner on the way. He inflicted the injuries on the victim's head with a baseball bat. He threw the victim and the bat. He led the police to the place where he had thrown the key of the vehicle. However, the key could not be recovered. The co-accused recovered the vehicle bearing registration No. HR 79-2777. The co-accused also identified the places where he had dropped the petitioner and beaten the victim. Manish Arora recovered his clothes, which were kept in the petitioner's room. The place from where the beer bottles were purchased was also identified. The viscera were sent to SFSL, but no poison/ethyl alcohol could be detected during the analysis. FIR No. 1044 of 2022 was earlier registered against the petitioner. The petitioner and co-accused were in touch with each other, but subsequently they switched off their mobile phone. The police filed the chargesheet, and the matter was listed before the learned Chief Judicial Magistrate, Nahan, on 14.10.2025. Hence, the status report.

2025:HHC:35178

4. I have heard Mr K.S. Gill, learned counsel for the petitioner and Mr Jitender Sharma, learned Additional Advocate General for the respondent/State.

5. Mr K.S. Gill, learned counsel for the petitioner, submitted that the petitioner is innocent and she was falsely implicated. There is no material against her except the confessional statement made by the co-accused, which is inadmissible in evidence. Moreover, the statement of the co-accused shows that the petitioner was dropped at some distance from the place of the incident, and the petitioner had no knowledge regarding the commission of the crime by the co-accused. The petitioner would abide by the terms and conditions which the Court may impose. Hence, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Jitender Sharma, learned Additional Advocate General, submitted that the petitioner had accompanied the co-accused and the deceased. She saw that the deceased was missing and was aware of the fact that the co-accused had murdered the deceased. She is a conspirator and had helped in the destruction

of the evidence. Therefore, he prayed that the present petition be dismissed.

7. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

8. The parameters for granting bail were considered by the Hon'ble Supreme Court in ***Pinki v. State of U.P., (2025) 7 SCC 314: 2025 SCC OnLine SC 781,*** wherein it was observed at page 380: -

> **(*i*) *Broad principles for the grant of bail***
>
> **56.** In ***Gudikanti Narasimhulu v. High Court of A.P., (1978) 1 SCC 240: 1978 SCC (Cri) 115***, Krishna Iyer, J., while elaborating on the content of Article 21 of the Constitution of India in the context of personal liberty of a person under trial, has laid down the key factors that should be considered while granting bail, which are extracted as under: (SCC p. 244, paras 7-9)
>
> "7. It is thus obvious that the nature of the charge is the vital factor, and the nature of the evidence is also pertinent. The punishment to which the party may be liable, if convicted or conviction is confirmed, also bears upon the issue.
>
> *8. Another relevant factor is whether the course of justice would be thwarted by him who seeks the benignant jurisdiction of the Court to be freed for the time being*. [***Patrick Devlin, "The Criminal Prosecution in England"*** (Oxford University Press, London 1960) p. 75 — Modern Law Review, Vol. 81, Jan. 1968, p. 54.]
>
> *9. Thus, the legal principles and practice validate the Court considering the likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the*

process of justice. It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the members of society. Bail discretion, on the basis of evidence about the criminal record of a defendant, is therefore not an exercise in irrelevance." (emphasis supplied)

57. In ***Prahlad Singh Bhati v. State (NCT of Delhi), (2001) 4 SCC 280: 2001 SCC (Cri) 674***, this Court highlighted various aspects that the courts should keep in mind while dealing with an application seeking bail. The same may be extracted as follows: (SCC pp. 284-85, para 8)

"*8. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles, having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy it (sic itself) as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge*." (emphasis supplied)

58. This Court in ***Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598: 2002 SCC (Cri) 688***, speaking through Banerjee, J., emphasised that a court exercising discretion

in matters of bail has to undertake the same judiciously. In highlighting that bail should not be granted as a matter of course, bereft of cogent reasoning, this Court observed as follows: (SCC p. 602, para 3)

> "*3. Grant of bail, though being a discretionary order, but, however, calls for the exercise of such a discretion in a judicious manner and not as a matter of course. An order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts do always vary from case to case. While placement of the accused in the society, though it may be considered by itself, cannot be a guiding factor in the matter of grant of bail, and the same should always be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — the more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.*" (emphasis supplied)

59. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528: 2004 SCC (Cri) 1977***, this Court held that although it is established that a court considering a bail application cannot undertake a detailed examination of evidence and an elaborate discussion on the merits of the case, yet the court is required to indicate the prima facie reasons justifying the grant of bail.

60. In Prasanta ***Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496: (2011) 3 SCC (Cri) 765***, this Court observed that where a High Court has granted bail mechanically, the said order would suffer from the vice of non-application of mind, rendering it illegal. This Court held as under with regard to the circumstances under which an order granting bail may be set aside. In doing so, the factors which ought to have guided the Court's decision to grant bail have also been detailed as under: (SCC p. 499, para 9)

> "*9. … It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or reject-*

ing bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(*i*) *whether there is any prima facie or reasonable ground to believe that the accused had committed the offence*;

(*ii*) *nature and gravity of the accusation*;

(*iii*) *severity of the punishment in the event of conviction*;

(*iv*) *danger of the accused absconding or fleeing, if released on bail*;

(*v*) *character, behaviour, means, position and standing of the accused*;

(*vi*) *likelihood of the offence being repeated*;

(*vii*) *reasonable apprehension of the witnesses being influenced; and*

(*viii*) *danger, of course, of justice being thwarted by grant of bail.*" (emphasis supplied)

xxxxxxx

62. One of the judgments of this Court on the aspect of application of mind and requirement of judicious exercise of discretion in arriving at an order granting bail to the accused is ***Brijmani Devi v. Pappu Kumar, (2022) 4 SCC 497 : (2022) 2 SCC (Cri) 170***, wherein a three-Judge Bench of this Court, while setting aside an unreasoned and casual order (***Pappu Kumar v. State of Bihar, 2021 SCC OnLine Pat 2856*** and ***Pappu Singh v. State of Bihar, 2021 SCC OnLine Pat 2857***) of the High Court granting bail to the accused, observed as follows: (***Brijmani Devi v. Pappu Kumar, (2022) 4 SCC 497 : (2022) 2 SCC (Cri) 170]***), SCC p. 511, para 35)

"*35. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail courts cannot lose sight of the serious nature of the accusations against an accused*

> *and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a court to arrive at a prima facie conclusion. While considering an application for the grant of bail, a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence(s) alleged against an accused.*" (emphasis supplied)

9. The present petition has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

10. The status report shows that the only material collected by the prosecution against the petitioner is a confessional statement made by the co-accused. It was laid down by the Hon'ble Supreme Court in ***Dipakbhai Jagdishchandra Patel v. State of Gujarat, (2019) 16 SCC 547: (2020) 2 SCC (Cri) 361: 2019 SCC OnLine SC 588*** that a statement made by a co-accused during the investigation is hit by Section 162 of Cr.P.C. and Section 25 of Indian Evidence Act and cannot be used as a piece of evidence. It was observed at page 568: -

> "**44.** Such a person, viz., the person who is named in the FIR, and therefore, the accused in the eye of the law, can indeed be questioned, and the statement is taken by the police officer. A confession that is made to a police officer

> would be inadmissible, having regard to Section 25 of the Evidence Act. A confession, which is vitiated under Section 24 of the Evidence Act, would also be inadmissible. A confession, unless it fulfils the test laid down in ***Pakala Narayana Swami [Pakala Narayana Swami v. King Emperor, 1939 SCC OnLine PC 1: (1938-39) 66 IA 66: AIR 1939 PC 47]*** and as accepted by this Court, may still be used as an admission under Section 21 of the Evidence Act. This, however, is subject to the bar of admissibility of a statement under Section 161 CrPC. Therefore, even if a statement contains an admission, the statement being one under Section 161, it would immediately attract the bar under Section 162 CrPC."

11. Therefore, the prosecution cannot rely upon the confessional statement made by the co-accused to implicate the petitioner.

12. The police also found the blood-stained clothes in the petitioner's room. However, the police explained in the status report that the co-accused told the petitioner that some altercation had taken place between him and the victim. Thus, the recovery of the blood-stained clothes cannot lead to an inference that the petitioner was aware of the commission of murder by the co-accused. In any case, the circumstances would attract Section 238 of BNS, which is bailable as per the first schedule of Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS). Thus, the petitioner cannot be detained in custody simply because she had screened the offender and destroyed the evidence.

13. The status report *prima facie* does not show the involvement of the petitioner in the murder of the victim. Hence, the petitioner cannot be detained in custody.

14. The police have filed the charge sheet, and the petitioner is not in a position to influence the investigation or the witnesses. Hence, no fruitful purpose would be served by detaining her in custody.

15. In view of the above, the present petition is allowed, and the petitioner is ordered to be released on bail in the sum of ₹1,00,000/- with one surety of the like amount to the satisfaction of the learned Trial Court. While on bail, the petitioner will abide by the following terms and conditions: -

(I) The petitioner will not intimidate the witnesses, nor will she influence any evidence in any manner whatsoever;

(II) The petitioner shall attend the trial on each and every hearing and will not seek unnecessary adjournments;

(III) The petitioner will not leave the present address for a continuous period of seven days without furnishing the address of the intended visit to the SHO concerned, the Police Station concerned and the Trial Court;

(IV) The petitioner will surrender her passport, if any, to the Court; and

(V) The petitioner will furnish her mobile number and social media contact to the Police and the Court and will abide by the summons/notices received from the Police/Court through SMS/WhatsApp/Social Media Account. In case of

any change in the mobile number or social media accounts, the same will be intimated to the Police/Court within five days from the date of the change.

16. It is expressly made clear that in case of violation of any of these conditions, the prosecution will have the right to file a petition for cancellation of the bail.

17. The petition stands accordingly disposed of. A copy of this order be sent to the Jail Superintendent, Model Central Jail, Nahan and the learned Trial Court by FASTER.

18. The observations made hereinabove are regarding the disposal of this petition and will have no bearing, whatsoever, on the case's merits.

(Rakesh Kainthla)
Judge

17th October, 2025.
(Nikita)

CHANDER SHEKHAR Digitally signed by CHANDER SHEKHAR Date: 2025.10.17 12:15:11 +0530