IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) Nos. 2425, 2433 to 2436 of 2025

Reserved on: 8.10.2025

Date of Decision: 15.10.2025.

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1. Cr.MP(M) No. 2425 of 2025

Ranjit Singh ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

2. Cr.MP(M) No. 2433 of 2025

Anil Kumar @ Tinku ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

3. Cr.MP(M) No. 2434 of 2025

Mukhtiar Singh ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

4. Cr.MP(M) No. 2435 of 2025

Sukhwinder Singh @ Sukha ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

2025:HHC:34940

5. Cr.MP(M) No. 2436 of 2025

Prabhjot Singh ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] No.

For the Petitioner(s) : Mr Jagmohan Chandel, Advocate.

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

Rakesh Kainthla, Judge

The petitioners have filed the present petitions for seeking pre-arrest bail in FIR No. 154 of 2025, dated 18.9.2025, registered at Police Station, Indora, District Kangra, H.P., for the commission of offences punishable under Section 108 read with Section 3(5) of the Bhartiya Nyaya Sanhita, 2023 (BNS).

2. It has been asserted that the petitioners were falsely implicated in the present case. The petitioners belong to respectable families and have deep roots in society. They are ready and willing to cooperate with the investigation of the case. They would abide by the terms and conditions which the Court

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

may impose. The petitioners have not filed any bail petition before any competent Court of law. Hence the petitions.

3. The petitions are opposed by filing a copy of the FIR. It has been asserted that Abhishek (since deceased) was the informant's son. He committed suicide on 5.9.2025. A video was circulated after his death, in which the deceased was shown to be saying that Mukhtiar Singh, Sukha, Tikku, Parav, Nikka and 2-3 other persons, residents of Tyora, had beaten and threatened him. He was not able to show his face in society, and he committed suicide due to the beatings given to him. The police registered the FIR and recorded the statement of informant Satpal Singh, who stated that Abhishek had prepared a video before the suicide, stating that Mukhtiar, Sukha, Anil Kumar, Prabhjot Singh, Ranjeet Singh and 2-3 other persons had given him beatings. He identified the voice of Abhishek. The police seized the mobile phone.

4. I have heard Mr Jagmohan Singh Chandel, learned counsel for the petitioners, and Mr Jitender Sharma, learned Additional Advocate General, for the respondent-State.

5. Mr Jagmohan Singh Chandel, learned counsel for the petitioners, submitted that the petitioners are innocent and they were falsely implicated. They and the villagers complained against Nitish Kumar and Abhishek regarding the sale of heroin, but no action was taken. A false complaint was made as a counterblast to the informant's complaint. The petitioners would abide by the terms and conditions imposed by the Court. There was no *mens rea*. Hence, he prayed that the present petition be allowed and the petitioners be released on bail. He relied upon the judgment of the Hon'ble Supreme Court in ***Abhinav Mohan Delkar v. State of Maharashtra and others 2025 SCC OnLine 1725*** in support of his submission.

6. Mr Jitender Sharma, learned Additional Advocate General, for the respondent-State, submitted that the petitioners had beaten the deceased. They prepared his video and circulated it in the locality. The deceased was terrified by the beatings and circulation of the video. The act of beatings by the petitioners and other persons was a proximate cause of the society. The investigation is at its initial stage, and the offence is heinous. Therefore, he prayed that the present petition be dismissed.

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

8. It was laid down by the Hon'ble Supreme Court in ***P. Chidambaram v. Directorate of Enforcement, (2019) 9 SCC 24: (2019) 3 SCC (Cri) 509: 2019 SCC OnLine SC 1143*** that the power of pre-arrest bail is extraordinary and should be exercised sparingly. It was observed:

> "69. Ordinarily, an arrest is a part of the procedure of the investigation to secure not only the presence of the accused but also several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power, and the same has to be exercised sparingly. The privilege of pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; the possibility of the applicant fleeing justice, and other factors to decide whether it is a fit case for the grant of anticipatory bail. Grant of anticipatory bail to some extent interferes with the sphere of investigation of an offence, and hence, the court must be circumspect while exercising such power for the grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule, and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy."

9. This position was reiterated in ***Srikant Upadhyay v. State of Bihar, 2024 SCC OnLine SC 282,*** wherein it was held:

> "25. We have already held that the power to grant anticipatory bail is extraordinary. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of the imagination, be said that anticipatory bail is the rule. It cannot be the rule, and the question of its grant should be left to the cautious and judicious discretion of the Court, depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious, as the grant of interim protection or protection to the accused in serious cases may lead to a miscarriage of justice and may hamper the investigation to a great extent, as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest, and we say that such orders shall be passed in eminently fit cases."

10. It was held in ***Pratibha Manchanda v. State of Haryana, (2023) 8 SCC 181: 2023 SCC OnLine SC 785*** that the Courts should balance individual rights, public interest and fair investigation while considering an application for pre-arrest bail. It was observed:

> "21. The relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tightrope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact

> on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each case becomes crucial to ensure a just outcome."

11. It was held in ***Devinder Kumar Bansal v. State of Punjab***, ***(2025) 4 SCC 493: 2025 SCC OnLine SC 488*** that pre-arrest bail can be granted in exceptional circumstances where the Court is of the view that the petitioner was falsely implicated in the case, and the presumption of innocence cannot be a reason to grant bail. It was observed at page 501:

> "**21.** The parameters for the grant of anticipatory bail in a serious offence like corruption are required to be satisfied. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has been falsely implicated in the crime or the allegations are politically motivated or are frivolous. So far as the case at hand is concerned, it cannot be said that any exceptional circumstances have been made out by the petitioner-accused for the grant of anticipatory bail, and there is no frivolity in the prosecution.
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> **22.** In the aforesaid context, we may refer to a pronouncement in ***CBI v. V. Vijay Sai Reddy [CBI v. V. Vijay Sai Reddy, (2013) 7 SCC 452: (2013) 3 SCC (Cri) 563]***, wherein this Court expressed thus: (SCC p. 465, para 34)
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> > "*34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character 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/State and other similar considerations. It has also to be kept in mind that for the purpose of granting 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 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. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond a reasonable doubt.*" (emphasis in original and supplied)
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> **23.** The presumption of innocence, by itself, cannot be the sole consideration for the grant of anticipatory bail. The presumption of innocence is one of the considerations which the court should keep in mind while considering the plea for anticipatory bail. The salutary rule is to balance the cause of the accused and the cause of public justice. Over solicitous homage to the accused's liberty can, sometimes, defeat the cause of public justice.

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

13. The informant specifically mentioned that the deceased had named the petitioner as one of the persons who had given beatings to him. The complaint lodged by the villagers shows that Nitish Kumar was caught by the villagers with the heroin, who stated that the heroin was meant for Abhishek Chaudhary (since deceased) on 5.9.2025. The suicide was also committed on 5.9.2025. The deceased claimed that he was beaten, threatened and defamed. He was unable to show his face, and he

had to commit suicide. *Prima facie*, the statement of the deceased, coupled with the complaint made by the villagers, shows that the petitioners' act was the proximate cause of the suicide by the deceased and *prima facie*, the ingredients of the commission of the offence punishable under Section 108 read with Section 3(5) of BNS are satisfied. The investigation is at the initial stage, and releasing the petitioners on bail would hamper the investigation. Hence, keeping in view the nature of the offence, the petitioners cannot be released on pre-arrest bail.

14. The petitioners asserted that they had not filed any bail petition before any Court. This shows that they have approached this Court directly without approaching the Court of Sessions. It was laid down by the Hon'ble Supreme Court in ***Mohammed Rasal C versus State of Kerala and Anr. Special Leave to Appeal (Crl.) No. 6588 of 2025, decided on 08.09.2025,*** that a party should not be encouraged to approach the High Court directly without approaching the Court of Sessions. It was observed: -

> "We find that in this case, the petitioners had approached the High Court directly for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023(for short, 'BNSS'), without first approaching the Sessions Court for the said relief. We are of the opinion that though the concurrent jurisdiction is conferred upon the Sessions

Court and the High Court to entertain a prayer for pre-arrest bail under Section 482 of the BNSS (formerly, Section 438 CrPC), the hierarchy of Courts demands that no person seeking such remedy should be encouraged or allowed to directly approach the High Court for exercising jurisdiction under Section 482 of the BNSS (formerly, Section 438 CrPC) by bypassing the jurisdiction of the concerned Sessions Court.

7. The Sessions Judge exercises powers under Section 438 CrPC in relation to all cases registered with the police stations in the particular District. This area-wise distribution of work would make it much more convenient and facilitate expeditious disposal if the application for pre-arrest bail is first filed before the Sessions Court, which would have direct and first-hand assistance of the concerned Public Prosecutor appointed for that particular District. The Sessions Court would also have immediate access to the Case Diary, thereby facilitating a better appreciation of the facts of the case.

8. We further feel that if the practice of entertaining the applications for pre-arrest bail directly in the High Court is encouraged, and the parties concerned are not relegated to first approach the Sessions Court concerned, the High Court would be flooded with a spate of pre-arrest bail applications, thereby creating a chaotic situation. We say so because if the parties are required to approach the Sessions Court concerned for seeking a remedy of pre-arrest bail, there is a strong probability that a significant number of applications would be allowed at that level only, thereby acting as a filtration process before the process reaches the High Court.

9. It is trite that in most of the States, there is a consistent practice requiring the litigant concerned to first approach the Sessions Court for seeking relief of pre-arrest bail, and only in the event of denial of such relief, the litigant would be granted access to approach the High Court for seeking such relief. This is, of course, subject to just exceptions and the High Court, for reasons to be recorded, may entertain

an application for pre-arrest bail directly in special/extraordinary circumstances."

15. This position was reiterated in ***Jagdeo Prasad v. State of Bihar, 2025 SCC OnLine SC 2108,*** wherein it was observed:

> "**6.** However, before parting, we do wish to express our sincere concern with the haste with which the High Court has dealt with this matter. While the scheme of the Criminal Procedure Code, 1973 (now Bharatiya Nagarik Suraksha Sanhita, 2023) provides concurrent jurisdiction to the High Court and Sessions Court for entertaining applications for anticipatory bail, this Court has time and again observed that the High Court should always encourage exhausting an alternative/concurrent remedy before directly intervening itself. This approach balances the interests of all the stakeholders, first by giving the aggrieved party a round of challenge before the High Court. Second, this approach provides the High Court an opportunity to assess the judicial perspective so applied by the Sessions Court, in concurrent jurisdiction, instead of independently applying its mind from the first go. Further, the High Court fails to record any reason for directly granting anticipatory bail without impleading the appellant-complainant as a party."

16. Therefore, the present petitions are not maintainable before this Court without approaching the Court of Sessions.

17. Mr Jitender Kumar Sharma, learned Additional Advocate General, submitted that the investigation is continuing and the custodial interrogation of the petitioner is required. It was laid down by the Hon'ble Supreme Court in ***State Versus Anil***

Sharma (1997) 7 SCC 187 that where custodial interrogation is required, pre-arrest bail should not be granted. It was observed:-

> "6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable order under Section 438 of the Code. In a case like this, effective interrogation of a suspected person is of tremendous advantage in disinterring many useful information and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often, interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offender"

18. A similar view was taken by the Delhi High Court in ***Mukesh Khurana v. State (NCT of Delhi), 2022 SCC OnLine Del 1032,*** wherein it was observed: -

> "**13.** One of the significant factors in determining this question would be the need for custodial interrogation. Without a doubt, custodial interrogation is more effective to question a suspect. The cocoon of protection afforded by a bail order insulates the suspect, and he could thwart interrogation, reducing it to futile rituals. But it must also be kept in mind that while interrogation of a suspect is one

> of the basic and effective methods of crime solving, the liberty of an individual also needs to be balanced out."

19. It was held in ***P Chidambaram*** (supra) that the grant of pre-arrest bail may hamper the investigations. It was observed:

> "**83.** Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting useful information, and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences, would definitely hamper the effective investigation. Having regard to the materials said to have been collected by the respondent Enforcement Directorate and considering the stage of the investigation, we are of the view that it is not a fit case to grant anticipatory bail."

20. In view of the above, the petitioners cannot be released on pre-arrest bail; hence, the present petition fails, and the same is dismissed.

21. The observations made heretofore shall remain confined to the disposal of the petition and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

15th October, 2025
(Chander)