2026:HHC:13814

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 348 of 2026
Reserved on: 22.04.2026
Date of Decision: 28.04.2026.

Anuj Kumar .... Petitioner

Versus

State of HP .... Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] No

For the Petitioner : Mr Mohit Dogra, Advocate.

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

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking regular bail in FIR No. 4 of 2025 dated 15.01.2025 registered at Police Station Sihunta, District Chamba, for the commission of offences punishable under Sections 85 and 108 read with Section 3(5) of the Bharatiya Nayay Sanhita (BNS), 2023.

---

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

2. It has been asserted that the petitioner hails from a respectable family and commands good respect in the locality. He was falsely implicated at the instance of persons having inimical relations with him. The petitioner remained behind bars for about one year. He is the sole bread earner of the family, and his family is suffering hardship in his absence. As per the prosecution, the petitioner's wife committed suicide. The petitioner's mother-in-law made a complaint to the police that the petitioner used to harass his wife and suspect her character. He did not allow her to visit her parental home. He had turned her out of her matrimonial home with bruises on her face, chest and arms. She revealed that the petitioner had given her beatings. The petitioner subsequently took his wife to his home, where she committed suicide on 15.01.2025 by consuming poison. The police registered the FIR and investigated the matter. The petitioner is innocent, and he has been falsely implicated. The police have filed the chargesheet, and no fruitful purpose would be served by detaining the petitioner in custody. The co-accused Lal Chand and Veena Devi have already been enlarged on bail by the learned Additional Sessions Judge, Chamba (learned Trial Court) and the petitioner is entitled to bail on the principle of

parity. The prosecution has failed to examine the witnesses, and this violates the petitioner's right to a speedy trial. The petitioner would abide by the terms and conditions that the Court may impose. Hence, it was prayed that the present petition be allowed and the petitioner be released on bail.

3. The petition is opposed by filing a status report, asserting that the informant made a complaint to the police that Meenakshi (since deceased) was married to the petitioner. The petitioner used to suspect her character and beat her. He turned her out of her matrimonial home after beating her. She had sustained multiple injuries on her face, chest and arm. She went to her parental home and narrated the incident to the informant. The informant did not report the matter to any person because she had to settle Meenakshi in her matrimonial home. Subsequently, Meenakshi consumed poison. The police registered the FIR and investigated the matter. The postmortem examination of the deceased was conducted. Her viscera were sent to the FSL, and traces of phosphine gas (phosphide) were found in the viscera after the analysis. The Medical Officer reported that the cause of death was phosphine gas (phosphide) poisoning. It was found during the investigation that the

petitioner used to beat Meenakshi. The Ward Member of the area also tried to counsel the petitioner, but he continued to beat Meenakshi. The charge sheet has been filed before the Court. The prosecution has cited 21 witnesses, out of whom four witnesses have been examined, and the matter is listed for recording the statements of prosecution witnesses on 13.05.2026 and 14.05.2026. The petitioner is involved in the commission of a heinous offence. He would intimidate the witnesses in case of his release on bail. Hence, it was prayed that the present petition be dismissed.

4. I have heard Mr Mohit Dogra learned counsel for the petitioner and Mr Lokender Kutlehria learned Additional Advocate General for the respondent/State.

5. Mr Mohit Dogra, learned counsel for the petitioner, submitted that the petitioner is innocent and he has been falsely implicated. There is no material to show that the petitioner had harassed or subjected his wife to cruelty soon before her death. Hence, the necessary ingredients of the commission of an offence punishable under Section 108 of BNS are not made out. He relied upon the judgments of ***Jayedeepsingh Pravinsinh Chavda***

& Ors vs. State of Gujarat 2024:INSC:960, Dharam Pal vs. State of H.P. 2025:HHC:23686 and ***Prakash & others vs. State of Maharashtra 2024:INSC:1020*** in support of his submission.

6. Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State, submitted that the petitioner had earlier applied for regular bail and his petition was dismissed by the court. The subsequent bail petition only lies when there is a change in circumstances, and it is impermissible for the Court to review the order passed by it. The petitioner has not shown any change in the circumstances, and he is not entitled to bail. Hence, he prayed that the present petition be dismissed.

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

8. It is undisputed that the petitioner had earlier filed a bail petition, which was registered as Cr. MP(M) No. 1539 of 2025 and was dismissed on 21.07.2025. It was held in the ***State of Maharashtra. Captain Buddhikota Subha Rao (1989) Suppl. 2 SCC 605,*** that once a bail application has been dismissed, a

subsequent bail application can only be considered if there is a change of circumstances. It was observed:

> "Once that application was rejected, there was no question of granting a similar prayer. That is virtually overruling the earlier decision without there being a change in the fact situation. And when we speak of change, we mean a substantial one, which has a direct impact on the earlier decision and not merely cosmetic changes, which are of little or no consequence. 'Between the two orders, there was a gap of only two days, and it is nobody's case that during these two days, drastic changes had taken place, necessitating the release of the respondent on bail. Judicial discipline, propriety and comity demanded that the impugned order should not have been passed, reversing all earlier orders, including the one rendered by Puranik, J., only a couple of days before, in the absence of any substantial change in the fact situation. In such cases, it is necessary to act with restraint and circumspection so that the process of the Court is not abused by a litigant and an impression does not gain ground that the litigant has either successfully avoided one judge or selected another to secure an order which had hitherto eluded him.

9. Similarly, it was held in ***Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav (2004) 7 SCC 528*** that where an earlier bail application has been rejected, the Court has to consider the rejection of the earlier bail application and then consider why the subsequent bail application should be allowed. It was held:

> "11. In regard to cases where earlier bail applications have been rejected, there is a further onus on the court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications

> have been rejected and after such consideration, if the court is of the opinion that bail has to be granted then the said court will have to give specific reasons why in spite of such earlier rejection the subsequent bail application should be granted."

10. A similar view was taken in ***State of T.N. v. S.A. Raja, (2005) 8 SCC 380***, wherein it was observed:

> 9. When a learned Single Judge of the same court had denied bail to the respondent for certain reasons, and that order was unsuccessfully challenged before the appellate forum, without there being any major change of circumstances, another fresh application should not have been dealt with within a short span of time unless there were valid grounds giving rise to a tenable case for bail. Of course, the principles of res judicata are not applicable to bail applications, but the repeated filing of bail applications without there being any change of circumstances would lead to bad precedents."

11. This position was reiterated in ***Prasad Shrikant Purohit v. State of Maharashtra (2018) 11 SCC 458***, wherein it was observed:

> "30. Before concluding, we must note that though an accused has a right to make successive applications for the grant of bail, the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record the fresh grounds, which persuade it to take a view different from the one taken in the earlier applications."

12. It was held in ***Ajay Rajaram Hinge v. State of Maharashtra, 2023 SCC OnLine Bom 1551,*** that a successive bail

application can be filed if there is a material change in the circumstances, which means a change in the facts or the law. It was observed:

> "7. It needs to be noted that the right to file successive bail applications accrues to the applicant only on the existence of a material change in circumstances. The sine qua non for filing subsequent bail applications is a material change in circumstances. A material change in circumstances settled by law is a change in the fact situation or law that requires the earlier view to be interfered with or where the earlier finding has become obsolete. However, a change in circumstance has no bearing on the salutary principle of judicial propriety that successive bail application needs to be decided by the same Judge on the merits, if available at the place of sitting. There needs to be clarity between the power of a judge to consider the application and a person's right based on a material change in circumstances. A material change in circumstance creates in a person accused of an offence the right to file a fresh bail application. But the power to decide such a subsequent application operates in a completely different sphere, unconnected with the facts of a case. Such power is based on the well-settled and judicially recognized principle that if successive bail applications on the same subject are permitted to be disposed of by different Judges, there would be conflicting orders, and the litigant would be pestering every Judge till he gets an order to his liking resulting in the credibility of the Court and the confidence of the other side being put in issue and there would be wastage of Court's time and that judicial discipline requires that such matter must be placed before the same Judge, if he is available, for orders. The satisfaction of material change in circumstances needs to be adjudicated by the same Judge who had earlier decided the application. Therefore, the same Judge needs to adjudicate whether there is a change in circumstance as claimed by the

> applicant, which entitles him to file a subsequent bail application."

13. Therefore, the present bail petition can only be considered on the basis of the change in circumstances, and it is not permissible to review the order passed by the Court.

14. This Court had specifically held that the material on record *prima facie* connected the petitioner to the commission of the crime. The plea that the complaint was not made immediately by the family members of the deceased was also negated. These findings cannot be reviewed by this Court while exercising the jurisdiction to grant a subsequent bail petition. It was laid down by the Hon'ble Supreme Court in ***State of M.P. v. Kajad, (2001) 7 SCC 673: 2001 SCC (Cri) 1520: 2001 SCC OnLine SC 1070,*** that it is impermissible to review the earlier order of bail in the subsequent bail petition, and the Court can only consider the change in circumstances. It was observed at page 676:

> **8.** It has further to be noted that the factum of the rejection of his earlier bail application bearing Miscellaneous Case No. 2052 of 2000 on 5-6-2000 has not been denied by the respondent. Successive bail applications are indeed permissible under the changed circumstances. But without the change in the circumstances, the second application would be deemed to be seeking a review of the earlier judgment, which is not permissible under criminal law, as has been held by this Court in ***Hari Singh Mann v. Harbhajan***

> ***Singh Bajwa [(2001) 1 SCC 169: 2001 SCC (Cri) 113]*** and various other judgments.

15. Therefore, it is impermissible for this Court to adjudicate the plea made on behalf of the petitioner that no case for the abetment to suicide is made out, and the petitioner cannot take any advantage from the judgment of ***Jayedeepsinh*** (supra), ***Dharam Pal*** (supra) and ***Prakash and others*** (supra).

16. It was submitted that there are various discrepancies in the statements of prosecution witnesses examined before the learned Trial Court, and the petitioner is entitled to bail on this consideration. This submission will not help the petitioner. It was laid down by the Delhi High Court in ***Dineet v. State (NCT of Delhi), 2025 SCC OnLine Del 8603,*** that it is impermissible for the bail Court to appreciate the evidence recorded during the trial. It was observed:

> "**17.** Addressing Mr Mahajan's submissions, it is pertinent to note that nearly the entirety of the petitioner's case rests upon the assumption that this Court may enter into witness testimonies and evidence to determine contradictions and the hostility of witnesses at the stage of bail.
>
> **18.** However, it is trite that the same is not within the power of this Court at the stage of bail, as laid down in ***Satish Jaggi v. State of Chhattisgarh (2007) 11 SCC 195 : (2008) 1 SCC (Cri) 660***, paragraphs 11 and 12 of which merit reproduction:

"11. On the aforesaid reasoning, the learned Chief Justice thought it fit to grant bail. Mr. A.K. Ganguli, learned Senior Counsel appearing on behalf of the appellant complainant, Mr. Amarendra Sharan, learned ASG appearing on behalf of CBI and Mr. Rajiv Dutta, learned Senior Counsel appearing on behalf of the State of Chhattisgarh strenuously contended that having regard to the observations and findings of the learned Chief Justice as recorded above, it clearly shows that the learned Chief Justice while granting bail to the accused virtually decided the case on merit which amounts to acquitting the accused of the criminal charge levelled against him without trial. Per contra, Mr Vivek Tankha, learned Senior Counsel, contended that now the evidence is closed, so there is no question of the accused tampering with the prosecution witnesses or fleeing from justice. He further contended that now the arguments in the case have finally started, and the arguments of the prosecution are over, and only the defence is to give its reply. He, accordingly, contended that the bail granted by the learned Chief Justice need not be disturbed.

12. Normally, if the offence is non-bailable, bail can also be granted if the facts and circumstances so demand. We have already observed that in granting bail in a non-bailable offence, the primary consideration is the gravity and the nature of the offence. A reading of the order of the learned Chief Justice shows that the nature and the gravity of the offence and its impact on the democratic fabric of the society were not at all considered. We are more concerned with the observations and findings recorded by the learned Chief Justice on the credibility and the evidential value of the witnesses at the stage of granting bail. By making such observations and findings, the learned Chief Justice has virtually acquitted the accused of all the criminal charges levelled against him even before the trial. The trial is in progress, and if such findings

are allowed to stand, it would seriously prejudice the prosecution's case. At the stage of granting bail, the court can only go into the question of the prima facie case established for granting bail. It cannot go into the question of the credibility and reliability of the witnesses put up by the prosecution. The question of credibility and reliability of prosecution witnesses can only be tested during the trial."

19. By virtue of the aforementioned paragraphs from the Hon'ble Supreme Court's decision in *Satish Jaggi*, it is evinced that this Court, at the stage of Bail, cannot look into the allegations of PW2 being a witness who has turned hostile, nor apply its mind to alleged contradictions in his statement under Section 161 of the CrPC when compared with his testimony in Court, as the same would amount to appreciation of the evidentiary value of his statement and testimony, and this is an exercise that is only to be conducted during the course of trial.

20. The same has been relied upon by the Hon'ble Supreme Court in the judgment of ***State of Karnataka* v. *Sri Darshan 2025 SCC OnLine SC 1702***, with the following paragraphs of this decision reproduced for ready reference:

"20.2.5. *Further, such an approach of the High Court is contrary to the judicial precedents of this court, including* Satish Jaggi *v.* State of Chhattisgarh *(supra)*, Kanwar Singh Meena *v.* State of Rajasthan[4], *wherein it was held that courts, while considering bail, should not assess the credibility of witnesses, as this function squarely lies within the domain of the trial Court. Thus, the impugned order of the High Court violates this principle by commenting on the delay in the witness statements and imputing a lack of credibility at this stage"*

(emphasis supplied)

*****

"20.3.6. In the present case, the High Court also proceeded to analyse and discount the credibility of certain prosecution witnesses and forensic material. It observed contradictions in the eyewitness statements concerning the overt acts of the accused (para 26). It expressed doubts about the prosecution's explanation for the delay in recording the statements of CW. 76 and CW. 91 (para 27). It questioned the timing of the doctor's supplementary opinion and weighed its evidentiary worth (para 31). *As already pointed out, the credibility or reliability of witnesses is a matter for the trial Court to determine after full-fledged cross-examination. It is a trite law that statements recorded under section 161 Cr. P.C. are not substantive, and their evidentiary value can only be determined after cross-examination during trial. Any opinion rendered at the bail stage risks prejudging the outcome of the trial and must be avoided. Thus, the court's assessment of these aspects amounts to a premature appreciation of the probative value of prosecution evidence.*" (emphasis supplied)

*****

"24. On a cumulative analysis, it is evident that the order of the High Court suffers from serious legal infirmities. The order fails to record any special or cogent reasons for granting bail in a case involving charges under Sections 302, 120B, and 34 IPC. Instead, it reflects a mechanical exercise of discretion, marked by significant omissions of legally relevant facts. *Moreover, the High Court undertook an extensive examination of witness statements at the pre-trial stage, highlighting alleged contradictions and delays - issues that are inherently matters for the trial Court to assess through cross-examination. The trial Court alone is the appropriate forum to evaluate the credibility and reliability of witnesses.* Granting bail in such a serious case, without adequate consideration of the nature and gravity of the offence, the accused's role, and the tangible risk of interference with the trial, amounts to a

> perverse and wholly unwarranted exercise of discretion. The well-founded allegations of witness intimidation, coupled with compelling forensic and circumstantial evidence, further reinforce the necessity for cancellation of bail. Consequently, the liberty granted under the impugned order poses a real and imminent threat to the fair administration of justice and risks derailing the trial process. In light of these circumstances, this Court is satisfied that the present case calls for the exercise of its extraordinary jurisdiction under Section 439(2) Cr. P.C." (emphasis supplied)
>
> **21.** Drawing inspiration from the judgment in *Darshan*, the hostility of a witness cannot be interpreted as an automatic declaration of the prosecution's case as unconvincing, and thereby, in essence, result in the conduction of a mini-trial at the stage of bail and return findings upon the *ex-facie* merit of the accused's innocence/guilt.

17. It was laid down by the Hon'ble Supreme Court in ***X Vs. State of Rajasthan MANU/SC/1267/2024*** that ordinarily, in serious offences, the Trial Court or the High Court should not entertain the bail application of the accused after the commencement of the trial and grant bail because of some discrepancy in the testimony. It was observed: -

> "14. Ordinarily, in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court, be it the Trial Court or the High Court, should be loath to entertain the bail application of the Accused.
>
> 15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just

> before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.
>
> 16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach its conclusion, which may either result in the conviction of the Accused or the acquittal of the Accused. The moment the High Court exercises its discretion in favour of the Accused and orders the release of the Accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only if the trial gets unduly delayed and that, too, for no fault on the part of the Accused, the Court may be justified in ordering his release on bail on the ground that the right of the Accused to have a speedy trial has been infringed."

118. Similarly, it was held by this Court in ***Suraj Singh v. State of H.P., 2022 SCC OnLine HP 268*** that the Court exercising bail jurisdiction cannot appreciate the contradictions in the evidence. It was observed:

> **10.** Petitioner has placed reliance on the statements of witnesses already recorded by the learned Special Judge, in support of his argument to the effect that, from perusal of these statements, reasonable grounds can be entertained for concluding prima facie innocence of the petitioner. The arguments raised on behalf of the petitioner deserve to be rejected for the reason that this Court, while dealing with the bail application, will not appreciate the evidence being recorded during the trial. Undisputedly, only some of the witnesses out of the entire list of witnesses relied

> upon by the prosecution have been examined. In these circumstances, it is not prudent to form any opinion as to the innocence or guilt of the petitioner on the basis of such partial evidence.

19. Therefore, the petitioner cannot be released on bail because of the discrepancies in the statements of the witnesses.

20. It was submitted that there is a delay in the progress of the trial, and the petitioners' right to a speedy trial is being violated. This submission cannot be accepted. The status report shows that the statements of four witnesses have been examined, and the matter is listed for recording the statements of prosecution witnesses on 13.05.2026 and 14.05.2026. The chargesheet was filed before the Court on 12.03.2025. The examination of four witnesses out of 21 cited by the prosecution within one year does not show any delay on the part of the prosecution. The petitioner has not filed the copies of the order sheets to demonstrate that there is a delay and it is attributable to the prosecution. Therefore, the petitioner cannot seek bail on the ground of the delay in the progress of the trial.

21. No other point was urged.

22. In view of the above, the present petition fails, and the same is dismissed.

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

(Rakesh Kainthla)
Judge

28th April, 2026
(Nikita)