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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 478 of 2026
Reserved on: 09.04.2026
Date of Decision: 23.04.2026.

Ramesh Rajbhar .... Petitioner

Versus

State of HP .... 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/State: Mr Lokender Kutlehria, Additional Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 128 of 2022, dated 28.10.2022, registered at Police Station Kala Amb, District Sirmaur, H.P., for the commission of an offence punishable under Section 302 of the Indian Penal Code (IPC).

2. It has been asserted that Tunnu Paswan, the informant and contractor, Arvind Singh, resided in the common

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

room inside the premises of the Ambika Alliance company. The informant was preparing dinner on 27.10.2022 at about 9:15 PM. The contractor, Arvind Singh, went outside and did not return for quite some time. The informant asked Guddu Paswan to look for the contractor. Guddu Paswan returned and told that Ramesh Rajbhar, the petitioner, was assaulting contractor Arvind Singh in the bathroom. The informant went to the bathroom and saw the petitioner giving blows to Arvind with some weapon. The informant tried to rescue Arvind Singh, but the petitioner inflicted blows on the informant. The informant shouted for help, upon which Chhotan, Tariq, Rajinder and other labourers reached the spot. The petitioner was saying that Arvind Singh had not returned his money, and he had killed him because of this fact. Arvind Singh was brought to the hospital, but he was declared dead. The matter was reported to the police, and the police investigated it. The police filed the chargesheet after the completion of the investigation. The petitioner was arrested on 27.10.2022. His behaviour inside the jail was satisfactory. The prosecution has failed to complete the evidence, 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 police received information on 27.10.2022 that two persons had quarrelled with each other inside Ambika Company premises. The police went to the spot and made preliminary inquiries. It was found that the injured person was taken to the hospital. The police visited the hospital where the informant made a statement to the police that he was preparing food on 27.10.2022 at about 9:15 PM. Arvind Singh, the informant's roommate, went outside the room. He did not return for some time, and the informant asked Guddu Paswam to look for him. Guddu Paswan told the informant that the petitioner, Ramesh Rajbhar, was beating Arvind Singh. The informant rushed to the spot and found that the petitioner had inflicted injuries on the face of Arvind Singh with some weapon. The informant tried to save Arvind Singh, but the petitioner attacked the informant. The informant shouted for help, and Chhotan, Tariq, Rajinder, Shiv Babu and other persons reached the spot. The petitioner was saying that Arvind had not returned his money; hence, he had beaten Arvind. The injured Arvind was

taken to the hospital, where he succumbed to his injuries. The police registered the FIR and investigated the matter. The police found 10-12 cut marks on the face and head of the deceased caused by a sharp-edged weapon. The police seized the material objects and sent the dead body for an autopsy. The petitioner made a statement that he had concealed the weapon of offence, which could be got recovered by him. He led the police to a junkyard and got a metallic chopper recovered that was seized by the police. The Medical Officer opined that the injuries could have been caused by the kind of weapon recovered by the police. The blood stains were found in the metallic chopper recovered at the petitioner's instance, the petitioner's vest and pants. As per the report of the post-mortem, the cause of death was the combined effect of head injury, haemorrhage, and shock, which was sufficient to cause death in the ordinary course of nature. The police filed the chargesheet before the Court. The statements of nine witnesses out of 29 witnesses cited by the prosecution are to be recorded. The matter is listed for recording the statements of prosecution witnesses on 02.06.2026. Hence, the status report.

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4. I have heard Mr K.S. Gill learned Counsel for the petitioner/accused and Mr Lokender Kutlehria 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 he was falsely implicated. The petitioner has remained behind bars, and the prosecution has failed to complete the evidence, which violates the petitioner's right to a speedy trial. Hence, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State, submitted that the petitioner is involved in the commission of a heinous offence which is punishable with the extreme penalty of death. The prosecution has examined a substantial number of witnesses, and only the statements of nine witnesses are to be recorded. The matter is listed before the learned Trial Court on 02.06.2026. 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. 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***
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> **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)
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> > "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 a conviction is confirmed, also bears upon the issue.
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> > *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.]
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> > *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 the placement of the accused in society, though it may be considered by itself, cannot be a guiding factor in the matter of grant of bail, 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 rejecting 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*:
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> (*i*) *whether there is any prima facie or reasonable ground to believe that the accused had committed the offence*;
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> (*ii*) *nature and gravity of the accusation*;
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> (*iii*) *severity of the punishment in the event of conviction*;
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> (*iv*) *danger of the accused absconding or fleeing, if released on bail*;
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> (*v*) *character, behaviour, means, position and standing of the accused*;
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> (*vi*) *likelihood of the offence being repeated*;
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> (*vii*) *reasonable apprehension of the witnesses being influenced; and*
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> (*viii*) *danger, of course, of justice being thwarted by grant of bail*." (emphasis supplied)

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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 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. Hon'ble Supreme Court held in ***State of Rajasthan v. Balchand, (1977) 4 SCC 308: 1977 SCC (Cri) 594: 1977 SCC OnLine SC***

261 that the normal rule is bail and not jail, except where the gravity of the crime or the heinousness of the offence suggests otherwise. It was observed at page 308:

> **2.** The basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, by the petitioner who seeks enlargement on bail from the Court. We do not intend to be exhaustive but only illustrative.
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> **3.** It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh with us when considering the question of jail. So also, the heinousness of the crime...."

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

11. The status report specifically mentions that the informant and other persons had seen the petitioner assaulting the deceased with a metallic chopper. The metallic chopper was recovered at the petitioner's instance. Blood stains were found on the metallic chopper and the petitioner's clothes. The petitioner has not provided any explanation for the blood stains on his clothes, and the metallic chopper got recovered by him. The report of the autopsy also shows that the cause of the death

was antemortem injuries sustained by the deceased, which could have been caused by the means of the iron chopper got recovered at the instance of the petitioner. The nature of the injuries was sufficient to cause death in the ordinary course of nature. The autopsy report and the blood stains on the chopper and the petitioner's clothes corroborate the statements of the eyewitnesses that the petitioner had inflicted injuries to Arvind Singh with a metallic chopper. Therefore, *prima facie*, there is sufficient material to connect the petitioner to the commission of the offence punishable under Section 302 of the IPC.

12. It was submitted that there is a delay in the progress of the trial, and the petitioner's right to a speedy trial is being violated. This submission cannot be accepted. The status report shows that the prosecution has cited 29 witnesses, out of whom the statements of only nine witnesses are to be recorded. The matter is listed before the learned Trial Court on 02.06.2026 for recording the statements of the prosecution witnesses. Thus, the petitioner cannot be held entitled to bail because of a violation of his right to a speedy trial.

13. It was submitted that the prosecution had failed to produce the witnesses on some of the dates fixed by the learned Trial Court, and this is sufficient to enlarge the petitioner on bail. This submission cannot be accepted. Merely because the witnesses were not produced on a few occasions does not confer a right upon the accused to get bail, especially when he is involved in a heinous offence of murder.

14. The offence under Section 302 is punishable with the extreme penalty of death or life imprisonment. Thus, the punishment is severe. It was laid down by the Hon'ble Supreme Court in ***Gudikanti Narasimhulu v. Public Prosecutor, High Court of A.P., (1978) 1 SCC 240: 1978 SCC (Cri) 115: 1977 SCC OnLine SC 327*** that when the punishment is severe, the person is not entitled to bail. It was observed at page 244:

> **"6.** Let us have a glance at the pros and cons and the true principle around which other relevant factors must revolve. When the case is finally disposed of and a person is sentenced to incarceration, things stand on a different footing. We are concerned with the penultimate stage, and the principal rule to guide release on bail should be to secure the presence of the applicant who seeks to be liberated, to take judgment and serve a sentence in the event of the Court punishing him with imprisonment. In this perspective, the relevance of considerations is regulated by their nexus with the likely absence of the applicant for fear of a severe sentence, if such be plausible

in the case. As Erle. J. indicated that when the crime charged (of which a conviction has been sustained) is of the highest magnitude and the punishment for it assigned by law is of extreme severity, the Court may reasonably presume, some evidence warranting, that no amount of bail would secure the presence of the convict at the stage of judgment, should he be enlarged. [***Mod. Law Rev. p. 50 ibid., 1852 I E & B 1]*** Lord Campbell, C.J., concurred in this approach in that case, and Coleridge J. set down the order of priorities as follows: [***Mod. Law Rev. ibid., pp. 50-51***]

> "I do not think that an accused party is detained in custody because of his guilt, but because there are sufficient probable grounds for the charge against him as to make it proper that he should be tried, and because the detention is necessary to ensure his appearance at trial .... It is a very important element in considering whether the party, if admitted to bail, would appear to take his trial; and I think that in coming to a determination on that point three elements will generally be found the most important: the charge, the nature of the evidence by which it is supported, and the punishment to which the party would be liable if convicted. In the present case, the charge is that of wilful murder; the evidence contains an admission by the prisoners of the truth of the charge, and the punishment of the offence is, by law, death."

7. It is thus obvious that the nature of the charge is the vital factor, and the nature of the evidence also is pertinent. The punishment to which the party may be liable, if convicted or conviction is confirmed, also bears upon the issue.

15. Thus, the nature of the offence and the severity of the punishment would disentitle the petitioner from the concession of bail.

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16. No other point was urged.

17. In view of the above, the present petition fails, and it is dismissed.

18. The observation made herein before shall remain confined to the disposal of the instant petition and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

23rd April, 2026
(Nikita)