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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 454 of 2026
Reserved on: 22.04.2026
Date of Decision: 27.04.2026.

Manmohan Singh @ Monu .... Petitioner

Versus

State of HP .... Respondent

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] No

For the Petitioner : Mr Vijender Katoch, 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. 123 of 2025 dated 19.09.2025 registered at Police Station Jawali, District Kangra, H.P. for the commission of offences punishable under Sections 109(1), 118(2), 333, 352 and 351(3) read with Section 3(5) of Bhartiya Nyaya Sanhita (BNS), 2023.

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

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2. It has been asserted that, as per the prosecution, the petitioner, co-accused Kushal Kumar, Pankaj and Rinku trespassed into the informant's house, and hurled abuses at the informant and her family members. The accused, Kushal Kumar, was holding a *darat*, and the petitioner was holding a *darati.* They gave beatings to Karnail Singh and Angrej Singh. The informant's mother tried to intervene, but Kushal Kumar pushed her. He inflicted a blow on the neck of Karnail Singh with a darat, causing injury to the neck. The informant and her family members shouted for help, and the assailants ran away from the spot. The injured Karnail Singh was taken to the hospital, from where he was referred to a higher institution for further treatment. The police registered the FIR and investigated the matter. The medical report showed a C/L/W on the left neck region measuring 5x3 centimetres, which was grievous in nature and dangerous to life. The police filed the chargesheet before the Court after the completion of the investigation. The petitioner is innocent, and he has nothing to do with the commission of the crime. The investigation is complete. Chargesheet has been filed before the Court, and no recovery is to be made from the petitioner. No other FIR was registered against the petitioner.

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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 was present in her home on 18.09.2025. Kushal Kumar, Manmohan Singh (the present petitioner), Pankaj and Rinku came to the informant's house. They abused the informant and her family members. Kushal Kumar was armed with *darat* and petitioner Manmohan was armed with a sickle. They started beating Karnail Singh and Angrej Singh. The informant's mother tried to rescue them, but Kushal Kumar pushed her. He inflicted a blow on the neck of Karnail Singh with a darat. Karnail Singh sustained bleeding injuries to his neck. The informant and her family members shouted for help, and the assailants ran away. The matter was reported to the police. The injured Karnail Singh was taken to the hospital, from where he was referred to a higher centre for his treatment. The police registered the FIR and investigated the matter. As per the report issued by the Medical Officer, the injured Karnail Singh had sustained C/L/W on the left neck region measuring 5x3 centimetres, which could have been caused

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by means of a sharp-edged weapon. The nature of the injury was grievous in nature and was dangerous to life. The police arrested the petitioner and the co-accused. The police also recovered the weapons of offence. These were sent to the SFSL, and as per the report of analysis, the DNA of injured Karnail Singh was found on *darat* recovered by the police. The police completed the investigation and filed the chargesheet before the Court on 16.12.2025. Hence, the status report.

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

5. Mr Vijender Katoch, learned counsel for the petitioner, submitted that the petitioner is innocent and that he was falsely implicated. The status report does not show that the petitioner had caused any injury. He was stated to be armed with a sickle, and no DNA of the injured was found on the sickle. The police have filed the chargesheet, and no fruitful purpose would be served by detaining the petitioner in custody. The petitioner would abide by the terms and conditions that the Court may

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impose. 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 was involved in the commission of a heinous offence. The grievous injury was caused to Karnail Singh, which was dangerous to life. The trial is yet to commence, and releasing the petitioner on bail would interfere with the fair trial. 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)

"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.

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 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*

> (*viii*) *danger, of course, of justice being thwarted by grant of bail*." (emphasis supplied)
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> **xxxxxxx**
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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)
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> "*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 shows that Kushal Kumar, the petitioner, Pankaj and Rinku came to the informant's house and they abused the informant and her family members. Kushal Kumar was armed with *darat* and the petitioner was armed with a sickle. They attacked Karnail Singh and Angrej Singh. Kushal Kumar inflicted a blow on the neck of Karnail Singh, and he suffered an injury on the left neck, which was dangerous to life and could have been caused by means of a sharp-edged weapon. *Prima facie,* all the accused were acting together, and the

petitioner would be liable by virtue of Section 3 (5) of the BNS, even if he had not caused the actual injury.

12. It was laid down by the Judicial Committee of the Privy Council about a Century Ago in ***Barendra Kumar Ghosh versus Emperor, AIR 1925 (PC) 1,*** that in crimes as in other things, "they also serve who only stand and wait." It was observed:

> "[23] As soon, however, as the other sections of this part of the Code are looked at, it becomes plain that the words of Section 31 are not to be eviscerated by reading them in this exceedingly limited sense. By Section 33, a criminal act in Section 34 includes a series of acts and, further, "act" includes omission to act, for example, an omission to interfere to prevent a murder being done before one's very eyes. By Section 37, when any offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence. Even if the appellant did nothing as he stood outside the door, it is to be remembered that in crimes as in other things, "they also serve who only stand and wait." By Section 38, when several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act. Read together, these sections are reasonably plain. Section 34 deals with the doing of separate acts, similar or diverse, by several persons; if all are done in furtherance of a common intention, each person is liable for the result of them all, as if he had done them himself, for "that act" and "the act" in the latter part of the section must include the whole action covered by "a criminal act" in the first part because they refer to it. Section 37 provides that when several acts are done to result together in the commission of an offence, the doing of any one of them, with an

> intention to cooperate in the offence (which may not be the same as an intention common to all), makes the actor liable to be punished for the commission of the offence. Section 38 provides for different punishments for different offences as an alternative to one punishment for one offence, whether the persons engaged or concerned in the commission of a criminal act are set in motion by one intention or by the other."

13. It was laid down by the Hon'ble Supreme Court in ***Thoti Manohar vs State of Andhra Pradesh (2012) 7 SCC 723*** that when the accused went to the house of the deceased armed with deadly weapons, their common intention was duly proved. It was observed:

> "42. In ***Ram Tahal and others v. The State of U.P. AIR 1972 SC 254***, while dealing with the applicability of Section 34 of the IPC, a two-judge Bench observed:
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> > "There is no doubt that a common intention should be anterior in time to the commission of the crime, showing a pre-arranged plan and prior concert, and though it is difficult in most cases to prove the intention of an individual, yet it has to be inferred from the act or conduct or other relevant circumstances of the case. This inference can be gathered by the manner in which the accused arrived on the scene and mounted the attack, the determination and concert with which the beating was given or the injuries caused by one or some of them, the acts done by others to assist those causing the injuries, the concerted conduct subsequent to the commission of the offence, for instance, that all of them had left the scene of the incident together, and other acts which all or some may have done as would help in determining the common intention.

> In other words, the totality of the circumstances must be taken into consideration in arriving at the conclusion whether the accused had a common intention to commit an offence with which they could be convicted."

43. In ***Rajesh Govind Jagesha v. State of Maharashtra, AIR 2000 SC 160***, a two-judge Bench has held that:

> "The existence of common intention can be inferred from the attending circumstances of the case and the conduct of the parties. No direct evidence of common intention is necessary. For the purpose of common intention, even the participation in the commission of the offence need not be proved in all cases."

44. In ***Bishna alias Bhiswadeb Mahato and others v. State of West Bengal AIR 2006 SC 302***, it has been held that for the purpose of attracting Section 34 of the IPC, a specific overt act on the part of the accused is not necessary. He may even wait and watch. Inaction on the part of an accused may sometimes go a long way to achieving a common intention or an object with others.

45. In ***Manik Das and others v. State of Assam AIR 2007 SC 2274***, it has been held as follows:-

> "The Section does not say 'the common intention of all', nor does it say an intention common to all" Under the provisions of Section 34, the essence of the liability is to be found in the existence of a common intention animating the accused, leading to the doing of a criminal act in furtherance of such intention. As a result of the application of principles enunciated in Section 34, when an accused is convicted under Section 302 read with Section 34, in law, it means that the accused is liable for the act which caused the death of the deceased in the same manner as if it were done by him alone. The provision is intended to meet a case in which it may be difficult to distinguish between acts of individual

> members of a party who act in furtherance of the common intention of all, or to prove exactly what part was taken by each of them. As was observed in ***Ch. Pulla Reddy and Ors. v. State of Andhra Pradesh (AIR 1993 SC 1899)***. Section 34 is applicable even if no injury has been caused by the particular accused himself. For applying Section 34, it is not necessary to show some overt act on the part of the accused."
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> 46. Coming to the case at hand, the appellant had an inimical relationship with the deceased and his family, as the previous occurrences would show. Despite a consensus being arrived at that there would be a panchayat on 26.9.2002, they, armed with deadly weapons, went to the house of the deceased and dragged the deceased. The previous meeting of minds with a pre-arranged plan or prior concert, as has been held by a number of authorities, is difficult to establish by way of direct evidence. They are to be inferred from the conduct and circumstances. As is evident, the weapons they carried were lethal in nature. The deceased was absolutely helpless and not armed with any weapon. It was most unexpected on their part, as normally it was expected that there would be a panchayat on the next day."

14. Therefore, *prima facie,* the petitioner is involved in the commission of an offence punishable under section 109 (1) of BNS.

15. The offence punishable under Section 109(1) of BNS is punishable with life imprisonment. 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***]
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> > "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."
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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 also is pertinent. The punishment to which the party may be liable, if convicted or conviction is confirmed, also bears upon the issue.

16. Considering the nature of the offence and the severity of the punishment, the petitioner is not entitled to bail.

17. No other point was urged.

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

19. 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

27th April, 2026
(Nikita)