IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr. MP (M) No.592 of 2026
Date of Decision:27.04.2026

Khalbir Dangi ...Petitioner

Versus

State of Himachal Pradesh …Respondent

Coram:
The Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?[1]

For the petitioner : Mr. Ravinder Singh Chandel, Advocates.

For the respondent : Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General.

ASI Ashwani Kumar, PS Theog, District Shimla, Himachal Pradesh, present in person along with record.

Sandeep Sharma, J. (Oral)

Bail petitioner namely Khalbir Dangi, who is behind bars since 25.10.2025, has approached this Court in the instant proceedings filed under Section 483 of Bharatiya Nagrik Suraksha Sanhita (hereinafter '***BNSS***') for grant of regular bail in case FIR No.122 of 2025, dated 24.10.2025, under Sections 126(2), 115(2), 109 and 351 (2) of Bharatiya Nyaya Sanhita (hereinafter '***BNS***'), registered at Police Station Theog, District Shimla, H.P.

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[1] Whether reporters of the local papers may be allowed to see the judgment?

2. Pursuant to notices issued in the instant proceedings, respondent-State has filed status report and ASI Ashwani Kumar has come present with record. Record perused and returned.

3. Close scrutiny of record/status report reveals that on 24.10.2025 complainant i.e. father of the victim got his statement recorded under Section 173 Bharatiya Nagrik Suraksha Sanhita, alleging therein that on 24.10.2025, while his son had gone to dera/room of the bail-petitioner and asked him why he had not come for work for the last two days, bail-petitioner gave him beatings with danda, as a result thereof, he suffered serious head injury. At first instance, son of the complainant was taken to CH Theog, but from where he was referred to IGMC, Shimla, there he remained admitted for four-five months. As per MLC adduced on record, injuries suffered by the son of the complainant are serious and dangerous to life. Though at present, son of the complainant stands discharged from the hospital, but as per status report as well as statement of the Investigating officer, he is not in a good state of mind to gave his statement. Since investigation in the case at hand is complete and nothing remains to be recovered from the bail-petitioner, he has approached this Court in the instant proceedings for grant of regular bail.

4. While fairly acknowledging factum with regard to filing of challan in the competent Court of law, Mr. Rajan Kahol, learned Additional Advocate General, states that though nothing remains to be recovered from the bail-petitioner, but keeping in view the gravity of offence alleged to have been committed by him, he does not deserve any leniency. Mr. Kahol, states that MLC adduced on record clearly reveals that son of the complainant had suffered grievous injuries on his head, as a result thereof, he is totally paralyzed. He states that on account of injuries inflicted on the person of the victim, police has not been able to record his statement till date. He further states that petitioner, besides being Nepali, is a dangerous person, who in the event of his being enlarged on bail, may not only flee from justice, but may again cause harm to the victim and his family.

5. Having heard learned counsel for the parties and perused the status report/record, this Court is not persuaded to agree with Mr. Ravinder Singh Chandel, learned counsel for the petitioner, that petitioner has been falsely implicated, rather there is ample evidence adduced on record suggestive of the fact that bail-petitioner, who used to work in the fields of the complainant, inflicted injuries on the person of the victim with danda, as a result thereof, he suffered serious injuries and at present, he is

paralyzed. Though as per status report and statement of the Investigating Officer, victim is not in a fit state of mind, but learned counsel for the petitioner, on instructions, states that victim is a very clever person, who though has fully recovered from the injuries, but yet purposely with a view to ensure that prayer made on behalf of the petitioner for grant of bail is not accepted, not getting his statement recorded. He further states that otherwise also, once petitioner has been discharged from the hospital, it can be easily inferred that there is no danger to his life.

6. No doubt, bail-petitioner has committed heinous crime punishable under Section 109 of BNS, but guilt, if any, of him is yet to be established on record by leading cogent and convincing evidence. Since challan stands filed and considerable time is likely to be consumed in conclusion of trial, this Court sees no reason to let the bail-petitioner incarcerate in jail for indefinite period during trial, especially when he has already remained in custody for more than six months.

7. Hon’ble Apex Court as well as this Court have held in catena of cases that one is deemed to be innocent till the time his/her guilt is not proved, in accordance with law. Since guilt, if any, of the bail petitioner is yet to be established on record by the prosecution by leading cogent and convincing evidence, this court

sees no reason to curtail the freedom of the bail petitioner for an indefinite period during trial. Apprehension expressed by learned Additional Advocate General, that in the event of being enlarged on bail, bail petitioner may flee from justice can be best met by putting the bail petitioner to stringent conditions.

8. Hon'ble Apex Court in Criminal Appeal No. 227/2018, ***Dataram Singh vs. State of Uttar Pradesh & Anr***., decided on 6.2.2018, has categorically held that a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. Hon'ble Apex Court further held that while considering prayer for grant of bail, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Hon'ble Apex Court further held that if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimized, it would be a factor that a judge would need to consider in an appropriate case. The relevant paras of the aforesaid judgment are reproduced as under:

> ***2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where***

a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.

3. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.

4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to Section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting Section 436A in the Code of Criminal Procedure, 1973.

> ***5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in In Re-Inhuman Conditions in 1382 Prisons***

9. Hon'ble Apex Court in **Sanjay Chandra** versus **Central Bureau of Investigation** (2012)1 Supreme Court Cases 49 has held that gravity alone cannot be a decisive ground to deny bail, rather competing factors are required to be balanced by the court while exercising its discretion. It has been repeatedly held by the Hon'ble Apex Court that object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative.

10. In **Manoranjana Sinh alias Gupta** versus **CBI**, (2017) 5 SCC 218, Hon'ble Apex Court has held that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise also, normal rule is of bail and not jail. Apart from above, Court has to keep in mind nature of accusations, nature of evidence in support thereof,

severity of the punishment, which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

11. The Apex Court in **Prasanta Kumar Sarkar** versus **Ashis Chatterjee and another** (2010) 14 SCC 496, has laid down various principles to be kept in mind, while deciding petition for bail viz. prima facie case, nature and gravity of accusation, punishment involved, apprehension of repetition of offence and witnesses being influenced.

12. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, petitioner has carved out a case for grant of bail. Accordingly, the petition is allowed and the petitioner is ordered to be enlarged on bail in aforesaid FIR, subject to his furnishing personal bond in the sum of Rs.1,00,000/- with two sureties in the like amount to the satisfaction of concerned Chief Judicial Magistrate/trial Court, with following conditions:

> ***(a) He shall make himself available for the purpose of interrogation, if so required and regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;***
> ***(b) He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;***
> ***(c) He shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade him/her***

from disclosing such facts to the Court or the Police Officer; and
(d) He shall not leave the territory of India without the prior permission of the Court.
(e) He shall surrender passport, if any, before the investigating agency.

13. It is clarified that if the petitioner misuses the liberty or violates any of the conditions imposed upon him, the investigating agency shall be free to move this Court for cancellation of the bail.

14. Any observations made hereinabove shall not be construed to be a reflection on the merits of the case and shall remain confined to the disposal of this application alone. The petition stands accordingly disposed of.

15. The bail petitioner is permitted to produce the copy of the order downloaded from the High Court Website and the learned trial Court shall not insist for certified copy of the order, however, it may verify the order from the High Court website or otherwise.

(Sandeep Sharma)
Judge

April 27, 2026
(**sunil**)