**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. M.P. No. : 1598 of 2026**
**in Cr. A(C-DB) No. : 16 of 2025**
**Reserved on : 06.10.2026**
**Date of decision : 27.10.2026**
**Uploaded on : 27.10.2026**

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**Sunil Chauhan ...Applicant/Appellant.**

**Versus**

**State of Himachal Pradesh. ...Respondent.**

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***Coram***

***The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.***
***The Hon'ble Mr. Justice Bhupesh Sharma, Judge.***

***Whether approved for reporting?[1]***

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For the applicant/appellant : Mr. Ajay Kochhar, Sr. Advocate, with Mr. Varun Chauhan, Advocate.

For the respondent-State : Mr. J.S. Guleria, Deputy Advocate General.

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***Bhupesh Sharma, Judge***

This order shall dispose of an application under Section 430 of the Bharatiya Nagrik Suraksha Sanhita, 2023 ( for short 'BNSS') preferred by the applicant/convict, namely, Sunil Chauhan (hereinafter referred to as the 'accused') for

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

suspension of sentence passed against him by learned Sessions Judge Kinnaur at Rampur Bushahr, District Shimla, H.P., vide judgment of conviction and order of sentence dated 10.09.2025 in Sessions Case No. 92 of 2015, titled as 'State of Himachal Pradesh Vs. Sunil Chauhan' for the commission of offences punishable under Section 307 of the Indian Penal Code (for short 'IPC') and Section 30 of the Arms Act, 1959, as under:-

| **Name of accused** | **Date of arrest** | **Date of release on bail** | **Offences charged with** | **Whether acquitted or convicted** | **Sentence imposed** | **Period of detention undergone during the trial for purpose of Section 428 Cr.P.C.** |
|---|---|---|---|---|---|---|
| **Sunil Chauhan** | **15.04.2015** | **24.07.2015** | **U/s 307 IPC and 30 of the Indian Arms Act** | **Convicted** | **RI for 10 years and to pay fine of Rs. 25,000/- u/s 307 IPC. RI for 6 months and to pay fine of s. 2000/- u/s 30 of** | **100 days** |

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| | | | | | **Arms Act.** | |

2. Accused Sunil Chauhan was sent by SHO Police Station Rampur Bushahr, District Shimla, HP, to face trial for the commission of offences under Sections 307, 324 & 326 of the IPC and Section 30 of the Arms Act, 1959, in case FIR No 62/2015, dated 14.04.2015, registered under the said offences at Police Station, Rampur Bushahr, District Shimla, HP.

3. As per allegations, on 14.04.2015, at about 8:00 AM, at Kholighat Bazaar, Tehsil Nankhari, District Shimla, H.P., the accused opened fire with his 0.32 Caliber Pistol upon the complainant, Anil Mehta and Pradeep Mehta, with the intention to cause death or such bodily injury which is likely to cause death. The accused also contravened the provisions of the Arms Act, 1959, by using the weapon in such like manner. The complainant Anil Mehta and his brother Pradeep Mehta sustained grievous hurt and remained under treatment at Indira Gandhi Medical College and Hospital (I.G.M.C.), Shimla.

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4. The information regarding the incident was conveyed at Police Station Rampur Bushahr from P.P. Nankhari, at about 10:10 AM vide GD Number 17-A, dated 14.04.2015. A police party headed by Gaurav Singh, IPS (Probationer), went on the spot alongwith police officials and met the complainant, Anil Mehta, who got his statement recorded under Section 154 Cr.P.C. In pursuance thereof, case FIR No 62/2015, dated 14.04.2015, under Section 307 of the IPC, was registered against the accused at Police Station Rampur Bushahr, District Shimla, HP, at 5:30 PM. The police, after conducting detailed investigation found the involvement of the accused in the said incident and accordingly, a final report under Sections 173(2) of the Cr.P.C. was filed against him for the commission of offences under Sections 307, 324 & 326 of the IPC and Section 30 of the Arms Act, 1959.

5. Learned Trial Court after considering the oral as well as documentary evidence produced by the prosecution convicted the accused for the commission of offence punishable under Section 307 of the IPC and Section 30 of

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the Arms Act, 1959, vide impugned judgment of conviction and order of sentence dated 10.09.2025.

6. Mr. Ajay Kochhar, learned Senior Advocate for the accused, has submitted that the accused has been falsely implicated by the complainant Anil Mehta (PW-4) and his brother, Pradeep Mehta (PW-1). It is further submitted that on the night intervening 13.04.2015 and 14.04.2015, the complainant Anil Mehta (PW-4) alongwith Ankur and Sachin Shyam burned three tires of his vehicle i.e. Bolero camper, in front of his liquor vend and on the next morning i.e. on 14.04.2015, at about 8:00 AM, at Kholighat Bazaar, when he confronted the complainant regarding the said incident, he was attacked by him and his brother Pradeep Mehta with a 'Drat' i.e. a sharp edged weapon and in order to wave off the said attack, he was compelled to open fire in self-defence. It is further contended that the father of the accused Karam Chand Chauhan, on being informed, approached the police at P.P. Nankhari. vide Rapat No. 4, dated 14.04.2015, at about 8:15 AM and on the basis of the complaint filed on his behalf, case FIR No. 63/2015, dated 14.04.2015 was registered under Sections 435 & 323 read with Section 34 of

the IPC, at Police Station Rampur Bushahr, District Shimla, H.P., against the complainant Anil Mehta and two other persons, namely, Sachin Shyam and Ankur Shyam. The accused has pleaded that he was compelled to fire in the air in self-defence after being attacked by the complainant Anil Mehta (PW-4) alongwith others with sharp edged weapon i.e. 'Drat'.

7. The facts argued by the learned counsel for the accused had been controverted by the learned Deputy Advocate General.

8. In order to appreciate the rival submissions raised by the parties, it may be necessary to refer for 430 of BNSS, which deals with the suspension of sentence(s).

9. From perusal of Section 430 of BNSS, it is evident that save and except the matter falling under the category of sub-section (3), neither any specific principle of law is laid down nor any criteria has been fixed for consideration of the prayer of the convict and further, having a judgment of conviction erasing the presumption leaning in favour of the accused regarding innocence till contrary recorded by the court of the competent jurisdiction.

10. The Hon'ble Supreme Court in **Ash Mohammad v. Shiv Raj Singh alias Lalla Babu and Another, reported in (2012) 9 SCC 446**, has observed in para No. 30, as follows:

> *"30. We may usefully state that when the citizens are scared to lead a peaceful life and this kind of offences usher in an impediment in establishment of orderly society, the duty of the court becomes more pronounced and the burden is heavy. There should have been proper analysis of the criminal antecedents. Needless to say, imposition of conditions is subsequent to the order admitting an accused to bail. The question should be posed whether the accused deserves to be enlarged on bail or not and only thereafter issue of imposing conditions would arise. We do not deny for a moment that period of custody is a relevant factor but simultaneously the totality of circumstances and the criminal antecedents are also to be weighed. They are to be weighed in the scale of collective cry and desire. The societal concern has to be kept in view in juxtaposition of individual liberty. Regard being had to the said parameter we are inclined to think that the social concern in the case at hand deserves to be given priority over lifting the restriction on liberty of the accused." (Emphasis supplied)*

11. In **Bhagwan Rama Shinde Gosai and Others v. State of Gujarat, reported in (1999) 4 SCC 421**, wherein the appellants were convicted by the Trial Court against which, the appeal was pending before the High Court, the High Court successively rejected the prayer for grant of bail

till the pendency of appeal after suspending the sentence. Thus, it has been held as follows:

> *"3. When a convicted person is sentenced to a fixed period of sentence and when he files an appeal under any statutory right, suspension of sentence can be considered by the appellate court liberally unless there are exceptional circumstances. Of course, if there is any statutory restriction against suspension of sentence it is a different matter. Similarly, when the sentence is life imprisonment the consideration for suspension of sentence could be of a different approach. But if for any reason the sentence of a limited duration cannot be suspended every endeavour should be made to dispose of the appeal on merits more so when a motion for expeditious hearing of the appeal is made in such cases. Otherwise the very valuable right of appeal would be an exercise in futility by efflux of time. When the appellate court finds that due to practical reasons such appeals cannot be disposed of expeditiously the appellate court must bestow special concern in the matter of suspending the sentence so as to make the appeal right, meaningful and effective. Of course, appellate courts can impose similar conditions when bail is granted."*
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> *(Emphasis supplied)*

12. In the case of **Atul Tripathi v. State of Uttar Pradesh and Others, reported in (2014) 9 SCC 177**, the Hon'ble Supreme Court apart from identifying the differences of consideration of prayer for grant of bail relating to pre-conviction stage as well as post-conviction stage, set down the principles to be followed therein.

13. In **Kishori Lal v. Rupa and Others, reported in (2004) 7 SCC 638,** the Hon'ble Supreme Court has dewelled upon the factors that require to be considered by the courts while granting benefit under Section 389 of the Cr.P.C. in cases involving serious offences.

14. Bearing in mind the aforesaid principles of law, the endeavour on the part of the Court, therefore, should be to see as to whether the case presented by the prosecution and accepted by the trial Court can be said to be a case in which, ultimately the convict stands for fair chances of acquittal. If the answer to the above said question is to be in the affirmative, as a necessary corollary, we shall have to see that, if ultimately the convict appears to be entitled to have an acquittal at the hands of this Court, he should not be kept behind the bars for a pretty long time till the conclusion of the appeal, which usually take very long for decision and disposal.

15. Furthermore, it is clearly settled that while undertaking the exercise to ascertain whether the convict has fair chances of acquittal, what is to be looked into is something palpable, which is very apparent or gross on the

face of the record. On the basis of which, the Court can arrive at a *prima facie* satisfaction that the conviction may not be sustainable.

16. It is further a trite law that the Appellate Court should not re-appreciate the evidence at the stage of Section 430 of BNSS, 2023 and try to pick up few lacunas or loopholes here or there in the case of the prosecution.

17. Now, adverting to the factual matrix of the case.

18. It is admitted case of the parties that on 14.04.2015, at about 8:00 AM, at Kholighat Bazar, Tehsil Nankhari, District Shimla, H.P, the complainant Anil Mehta (PW-4) and his brother Pradeep Mehta (PW-1) and the accused Sunil Chauhan entered into altercation regarding the incident which had taken place on the previous night outside his shop at Kholighat Bazar wherein some miscreants had burned three tires of Bolero vehicle of the accused. It is also admitted case that the accused during the course of incident opened fire with his 0.32 Caliber Pistol, which resulted in the injuries to the complainant Anil Mehta (PW-4) and his brother Pradeep Mehta (PW-1). The accused also sustained injuries in the said incident. It is also

discernible that in case FIR No 62/2015, dated 14.04.2015, under Section 307 of the IPC was registered at Police Station Rampur Bushahr, District Shimla, HP, at 5:30 PM, at the instance of the complainant Anil Mehta(PW-4) and case FIR No 63/2015 dated 14.04.2015. under Sections 435, 323 & 324 read with Section 34 of the IPC was registered at Police Station Rampur Bushahr, District Shimla, H.P., against Sachin Shyam, Ankur Shyam and Anil Mehta at the instance of the father of the accused, named, Karam Chand Chauhan. The accused Sunil Chauhan was challaned for the commission of offences under Sections 307, 324 & 326 IPC and Section 30 of the Arms Act 1959, and he was put to trial in Sessions Trial No. 92/2015. Similarly, a final report under Section 173(2) of the Cr.P.C. was filed against Sachin Shyam, Ankur Shyam and Anil Mehta in case FIR No 63/2015, under Sections 435, 323 & 326 read with Section 34 of the IPC and they faced trial in Sessions Trial No. 10/2025. The accused Sunil Chauhan was convicted, vide impugned judgment of conviction dated 10.09.2025, whereas the complainant Anil Mehta and others were acquitted, vide judgment of acquittal

dated 10.09.2025 by learned Sessions Judge, Kinnaur at Rampur Bushahr, District Shimla, H.P.

19. The accused is in appeal before this Court against the judgment of conviction and order of sentence dated 10.09.2025 in Criminal Appeal No. 16/2025 and has also challenged the acquittal of complainant Anil Mehta and others in Sessions Trial No. 10/2025, vide judgment of acquittal dated 10.09.2025 in Criminal Appeal No. 22/2025. Both the appeals are being heard by this bench.

20. Learned Trial Court did not accept the defence raised by the accused for opening fire with his 0.32 Caliber Pistol in exercise of the right of private defence/self-defence, after being attacked by the complainant Anil Mehta (PW-4) and his brother Pradeep Mehta (PW-1), with a sharp edged weapon i.e. 'Drat'.

21. Learned Trial Court after relying upon the direct evidence i.e. statement of Pradeep Mehta (PW-1), Reeta Mehta (PW-2), Ram Dev (PW-3), Anil Mehta (PW-4) and Roshan Lal (PW-5), coupled with the medical evidence i.e. Exhibit PW-18/B (MLC of Pradeep Mehta), Exhibit PW-18/D (MLC of Anil Mehta), Exhibit PW-18/F (opinion of Medical Officer),

and Exhibit PW-14/B (Medical Board Report) and forensic evidence i.e. Exhibit PW-21/F (SFSL Report), Exhibit PX (SFSL DNA Report) and Exhibit PA (Ballistic SFSL Report) convicted the accused for the commission of offence under Section 307 IPC and Section 30 of the Arms Act,1959.

22. Although, the learned Trial Court did not accept the defence raised by the accused for having fired the gunshots in exercise of his right to private defence/self-defence, nevertheless, the findings of the learned Trial Court on this aspect are under challenge before this Court.

23. This Court also cannot lose sight of the fact that the complainant Anil Mehta (PW-4) alongwith two others faced trial in case FIR No. 63/2015 as Sessions Trial No. 10/2025 before the learned Sessions Judge, Kinnaur Division at Rampur Bushahr, District Shimla, H.P., regarding the same incident in which they have been acquitted. However, the accused has challenged the findings of the learned Trial Court in the said Sessions trial by filing a separate appeal, i.e., Criminal Appeal No. 22/2025.

24. The facts emerging on record need close scrutiny and appreciation in both the appeals and at this stage,

without embarking upon detailed examination of the evidence, the accused has a reasonable case for suspension of the sentence.

25. Needless to mention that the accused during the course of trial was on bail, therefore, there is nothing on record to infer that his act and conduct during the course of the trial before the learned Trial Court disentitles him from the fruits of Section 430 of BNSS.

26. Without further going into the intricacies and merits of the case, we are of the considered opinion that the accused can be given benefit of Section 430 of BNSS till disposal of both the appeals.

27. In view of the peculiar facts and circumstances of the case and in view of the provisions of Section 430 of BNSS and the pronouncements of the Hon'ble Apex Court, the substantive sentence(s) as well as the fine imposed upon the appellant-convict are suspended, subject to his furnishing personal bond in the sum of ₹1,00,000/- with one surety in the like amount to the satisfaction of the learned Trial Court on or before **02.11.2026**, undertaking therein to appear before this Court as and when directed to do so and

also to surrender, in case the appeal is dismissed, to serve the remaining sentence.

28. Any expression of opinion herein-above shall have no bearing on the merits of the case and shall be deemed only for the purpose of disposal of this application.

**(Vivek Singh Thakur)**
**Judge**

**27th October, 2026**
(sushma)

**(Bhupesh Sharma)**
**Judge**