IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No. 1834 of 2026
Reserved on: 29.10.2026.
Decided on: 04.11.2026

Mahabir Kumar .... Petitioner

Versus

State of H.P. .... Respondent

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

For the Petitioner : Mr Panku Chaudhary, Advocate.
For the Respondent/State : Mr Ajit Sharma, Deputy Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 21 of 2024 dated 25.01.2024 registered at Police Station Nurpur, District Kangra for the commission of an offence punishable under Section 420 of the Indian Penal Code (IPC).

2. It has been asserted that, as per the prosecution, an amount of ₹2,90,000/- was transferred by the victim into the petitioner's bank account, which was being operated by Noor Alam,

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

who used to pay a small commission of ₹2,000/- to 3,000/- per month to the petitioner. The police have arrested Noor Alam, and the investigation has progressed. The petitioner was arrested on 11.02.2026, and he has undergone a substantial period of incarceration. The police have filed the charge sheet before the Court, 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 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 her nephew is working in Mexico. She received a call on 06.01.2026 that her nephew was in trouble and needed money. The informant transferred money. Subsequently, it was found that the call was fake. The police registered the FIR and investigated the matter. It was found that the informant had transferred ₹3,20,000/- from her account. The account to which the money was transferred was traced to the petitioner. ₹524/- was found in the petitioner's account. The petitioner's account was also flagged by the Chandigarh Police in cybercrime. The police arrested the petitioner on 11.02.2026. The charge sheet was filed before the Court on

08.04.2026. One account was traced to Sonu Mukhiya, to which the money was transferred from the petitioner's account. 74 SIMs were issued in the name of Noor Alam, who was operating these accounts. The police arrested Noor Alam on 22.07.2026. The charge sheet was also filed against him. Naina Bai was also found involved in the commission of the crime, and ₹30,000/- was recovered from her. The matter is pending before the learned Trial Court and was listed on 12.10.2026. Hence, the status report.

4. I have heard Mr Panku Chaudhary, learned counsel for the petitioner and Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State.

5. Mr Panku Chaudhary, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. As per the status report, the petitioner's account was being operated by Noor Aalm, who used to pay money to the petitioner. The petitioner was not actively involved in the fraud. The co-accused has been released by serving a notice upon her, and the petitioner is entitled to bail on the principle of parity. Therefore, he prayed that the present petition be allowed and the petitioner be released on bail.

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6. Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State, submitted that the petitioner is involved in a cybercrime, which is increasing. The petitioner's account had received money from the informant's account, which shows his involvement in the commission of the crime. The petitioner's account was flagged by Chandigarh Police as having been used in another cybercrime. The petitioner has criminal antecedents, and releasing him on bail would send a wrong signal to the society. Therefore, he prayed that the present petition be dismissed.

7. I have given 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.

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 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 shows that the money from the informant's account was transferred to the petitioner's account. Therefore, *prima facie*, the petitioner is involved in the commission of the crime. The plea taken by the petitioner that Noor Alam was operating the account and he was paying ₹2,000/- to 3,000/- per transaction to him will not help him because he had facilitated the use of his account by Noor Alam to defraud the people. It was rightly submitted on behalf of the State that the offences of cybercrimes are on the increase and any leniency shown in such cases can lead to the multiplication of such crime, putting the innocent persons' savings at stake.

12. The status report also shows that the petitioner's account has been flagged by the Chandigarh police, which shows that the use of the petitioner's account in the present case is not an

isolated instance. Therefore, the petitioner cannot claim that he was a victim of fraud committed by Noor Alam upon him.

13. Considering the nature of the allegation against the petitioner, the gravity of the crime and its social impact, the petitioner cannot be held entitled to bail.

14. It was submitted that the co-accused Naina Bai has been released on bail and the petitioner is entitled to bail on the principle of parity. This submission will not help the petitioner. Serving a notice upon the co-accused will not lessen the gravity of the offence committed by the petitioner, and he cannot claim to be released on bail because the co-accused has been so released.

15. In view of the above, the petitioner cannot be held entitled to bail; hence the present petition fails and is dismissed.

16. 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

4th November, 2026
(Nikita)