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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CrMP(M) No. 1826 of 2026
Reserved on: 16.10.2026.
Decided on: 02.11.2026

Abhishek @ Abhi .... 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 Binat Sharma, Advocate (through VC) and Mr Hemant Thakur, Advocate, (present in the Court).

For the Respondent/State : Mr Jitender Sharma, Additional Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 359 of 2025 dated 20.11.2025 registered at Police Station Una, District Una, HP for the commission of offences punishable under Sections 109, 190, 191(2), 191(3), 115(2), and 117(2) of Bharatiya 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 informant Ranbir Singh had gone to attend the birthday party of one Purjinder Singh at Raijada Hotel on the intervening night of 19/20.11.2025. The informant and his friends came out of the hotel, where they were attacked by a group of persons. Purjinder Singh Man, Parminder Singh Sandhu and Jaswinder Singh Man sustained injuries. They were taken to PGI, Chandigarh. The matter was reported to the Police, and the Police registered the FIR. A cross-FIR No. 358 of 2025 has been registered regarding the same incident. The registration of the cross FIR shows that it was not a one-sided premeditated assault by the petitioner's side, as is sought to be projected in the present FIR, but it was a case of a free fight between two groups, wherein the injuries were sustained by the members of the group. The investigation is complete, and the charge sheet has been filed before the learned Judicial Magistrate First Class, Court No.2, Una. The petitioner's custody is not required for investigation, and no fruitful purpose would be served by detaining the petitioner in custody. No specific overt act has been attributed to the petitioner. No recovery of a weapon was effected from the petitioner. The prosecution has cited 42 witnesses in the charge sheet submitted by it, which will take a considerable

time. Ashutosh, Shiv Kumar and Chand Thakur were enlarged on interim bail by the Hon'ble Supreme Court of India on 25.08.2026 and 07.09.2026. The FIR No. 161 of 2019, FIR No. 400 of 2019 and FIR No. 311 of 2021 are pending against the petitioner, but he has not been convicted by the competent Court. 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 was opposed by filing a status report asserting that the informant Ranbir Singh had filed a written complaint before the police stating that he was called to a party to celebrate the birthday of Purjinder Singh. The informant and other persons came out of the hotel after taking the meal. Ashu Puri, Sarul Kapila, Akash, Shiv Kumar, Ashu Kanav, Chand Thakur and Deepanshu attacked the informant's party. Purjinder Singh, Parminder Singh and Jaswindar Singh sustained injuries. They were referred to PGI, Chandigarh. The police registered the FIR and investigated the matter. Purjinder had sustained multiple head injuries, leading to urgent surgical intervention. Jaswinder had sustained grievous injuries. The police seized various articles and found that the incident was recorded on the CCTV cameras. The

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police seized the CCTV camera footage. The police found, after the investigation, that Ashutosh had visited the hotel to celebrate his birthday with his friends. Ashutosh had brought a sword in his vehicle. All the friends of Ashutosh were celebrating his birthday by cutting the cake and setting off the firecrackers. They were playing music in their vehicle. Gurjeet Maan and his friends came out. Both parties had a scuffle. Akash took out the sword from Ashutosh's vehicle. Ashutosh and his friends attacked Gurjeet Maan and his friends. Ashutosh again went towards his vehicle, but did not find anything inside it. The arms of Jaswinder were broken in the incident. Parminder shot Ashu Puri, who died on the spot. Sarul Kapila snatched the revolver from Parminder and tried to attack Purjinder. Sarul Kapila inflicted multiple injuries on Purjinder and Parminder with a sword. Ashutosh instigated Sarul Kapila by saying, ‘kill him’. Gurjeet Maan drove his vehicle and hit Sarul Kapila. The sword fell from the hands of Sarul. Ashutosh picked up the sword and went away. Subsequently, the sword was produced and seized by the police. Ashutosh and his friends had attacked Parminder and Purjinder with the intent to kill them. Ashutosh had instigated Sarul Kapila by saying, ‘kill him’. The injured persons stated that Chand Thakur, Ashutosh, Shiv Kumar, Deepanshu,

Abhishek (the present petitioner), Nitish, Sarul Kapila and Akash had given them beatings with swords, kicks and fist blows. The Medical Officer certified that the injuries sustained by Purjinder and Parminder could have been caused by a sharp-looking blunt weapon. FIR No. 161 of 19, FIR No. 400 of 2019 and FIR No. 311 of 21 have been registered against the petitioner. Parminder has been declared to be 100% disabled. The nature of injury sustained by Purjinder was stated to be dangerous to life. Hence, the status report.

4. I have heard Mr Binat Sharma, learned counsel (through V.C.) Mr Hemant Thakur, Advocate (present in the Court) for the petitioner and Mr Jitender Sharma, learned Additional Advocate General, for the respondent/State.

5. Mr Binat Sharma, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The co-accused have been granted interim bail by the Hon'ble Supreme Court of India. 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, he

prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Jitender Sharma, learned Additional Advocate General, for the respondent/State submitted that the petitioner and the co-accused had attacked Parminder and Purjinder with sharp-edged weapons and caused serious injuries to them. Parminder and Purjinder have not regained their health, and they are still under treatment. The allegations against the petitioner are heinous, and the petitioner would intimidate the witnesses in case of his release on bail. Hence, 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)

"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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> **xxxxxxx**

> **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:

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> **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 statements recorded by the police, the result of the investigation and the CCTV footage show that after Ashu Puri was shot dead, Akash, Chand Thakur, Sarul Kapila, Nitesh, Ashutosh, Deepanshu and Abhishek (the petitioner) attacked Gurjeet, Parminder and Gurjinder. Chand Thakur snatched the sword from Aakash and inflicted injuries on Gurjeet. They attacked Parminder and Gurjinder, who were severely injured. Parminder sustained multiple injuries to his head, which required surgical intervention. Therefore, *prima facie,* the petitioner shared the common intention to cause injuries to Parminder on his head, a vital part of the body. The fact that a sword, a deadly weapon, was used shows that, had Parminder died, the accused would have been guilty of committing

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murder by causing injury to the head with a deadly weapon. The offence alleged against the petitioner is heinous and is punishable with imprisonment for life. 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.

12. It was submitted that Ashutosh, Chand Thakur and Shiv Kumar have been granted pre-arrest bail by the Hon'ble Supreme Court of India and the petitioner is entitled to bail on the principle of parity. This submission will not help the petitioner. The pre-arrest bails have not been confirmed, and it is difficult to see how the interim order will enable the petitioner to get bail on the principle of parity. Further, the status report does not attribute any specific role to Shiv Kumar and the petitioner cannot claim any parity with him.

13. It is undisputed that the petitioner has criminal antecedents and three FIRs have been registered against him. This

Court dealt with the relevance of criminal antecedents while granting bail in ***Champa vs. State of H.P.: 2025:HHC:28899*** and held that the criminal antecedents would disentitle an accused from the concession of bail, especially when the FIR registered against him related to the commission of a similar offence. This judgment was unsuccessfully assailed before the Hon'ble Supreme Court in ***SLP(Criminal) 19120 of 2025*** titled ***Champa Devi vs State of H.P.,*** decided on***27.11.2025.*** This position was reiterated in ***Shakti Sharma vs. State of H.P., 2026: HHC:33462.*** Therefore, the relevance of criminal antecedents cannot be ignored.

14. In the present case, the registration of the FIR against the petitioner would support the apprehension of the prosecution that the petitioner would indulge in the commission of the crime and intimidate the witnesses in case of his release on bail. Therefore, the petitioner cannot be released on bail on this consideration as well.

15. No other point was urged.

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

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17. 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

2nd November, 2026
(Nikita)