IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P.(M) No.1828 of 2026
Reserved on: 30.10.2026
Decided on: 03.11.2026

Darshan Singh ..... Petitioner

Versus

State of Himachal Pradesh .....Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] ***No.***

For the Petitioner: Mr N.S. Chandel, Senior Advocate, with Ms Shwetima Dogra, Advocate.

For the Respondent: Mr Ajit Sharma, Deputy Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in F.I.R. No. 126/2025 dated 18.04.2025, registered at Police Station, Nalagarh, District Solan, H.P., for the commission of offences punishable under Sections 103 & 61(2) of the Bhartiya Nyaya Sanhita (BNS) 2023.

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[1] *Whether the reporters of the local papers may be allowed to see the Judgment?No*

2. It has been asserted that, as per the prosecution, the police had received telephonic information on 17.04.2025 that one person had committed suicide at Dattowal. The police went to the spot and found that the dead body had been taken to Kiratpur Sahib for cremation. The police went to Kiratpur Sahib and seized the body. Multiple injuries were found on the dead body. The wife of the deceased revealed during the inquiry that her husband had consumed liquor on 16.04.2025 at 4:00 p.m. and became violent. She and her children went away from the house. They returned at 10:00 p.m. and found the deceased sleeping on the floor. When the deceased did not wake up in the morning, she informed Sanjay Kumar. Sanjay Kumar filed an application before the police stating that the wife of the deceased had an illicit relationship with the petitioner. The deceased objected to that relationship. The wife of the deceased, Parvesh, the petitioner and some other person had murdered the deceased. Sanjay tried to inform the police, but the petitioner and the wife of the deceased objected to it, and they tried to hurriedly cremate the body. The police registered the FIR, investigated the matter, and arrested

the petitioner. The petitioner had earlier filed bail petitions, which was registered as Cr.MP(M) No. 1348 of 2025, and was dismissed as withdrawn on 29.07.2025 and Cr.MP(M) No. 2687 of 2025, which was dismissed on 12.12.2025. The petitioner is the sole earning member of the family. He has deep roots in society, and there is no chance of his absconding. The police have completed the investigation and filed the charge-sheet before the Court. No fruitful purpose would be served by detaining the petitioner in custody. 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 police had received telephonic information on 17.04.2025 that a person had committed suicide at Dattowal. The police went to the spot and found that the dead body had been taken to Kiratpur Sahib for cremation. The police went to Kiratpur Sahib and seized the dead body. Multiple injuries were found on the dead body. The police suspected foul play in the death. The wife of the deceased revealed during the enquiry that her husband had consumed liquor on 16.04.2025 at 4:00 p.m.

and became violent. She and her children went away from the house. They returned at 10:00 p.m. and found that the deceased was sleeping on the floor. She did not disturb him. When he did not wake in the morning, she informed Brijesh Kumar. Sanjay filed an application on 18.04.2025 stating that his brother Satbeer (since deceased), his wife Hansi, and the children were residing at Dattowal. Hansi had an illicit relationship with Darshan Singh (the present petitioner). Satbeer objected to the relationship. Darshan Singh, Hansi, Parvesh, and some other persons had murdered Satbeer. Sanjay tried to inform the police, but Hansi Devi and Darshan objected to it. They attempted to cremate the dead body, but Sanjay informed the police. The postmortem report revealed that the death was caused by the cumulative effect of asphyxia secondary to ligature strangulation of the neck and sustained electrocution. The police arrested Hansi Devi, who led the police to the room where the murder was committed. The police seized the pillow covers and the bed sheet. She also produced the clothes worn by Satbeer and her dupatta, which was used to strangle the deceased. The call detail record revealed that Hansi Devi and Darshan Singh were

talking to each other. The CCTV footage showed that a Maruti Dzire stopped near the building at 7:02 p.m. Two people and a woman got out of the car and went inside the building. One person returned after some time and again went back to the building. The person took away the vehicle after some time. Ishant Sharma identified the vehicle in the CCTV footage as the one owned by the petitioner, Darshan Singh. He also identified Hansi Devi and Darshan Singh as the persons who had gotten out of the car. The police interrogated Hansi Devi. The police seized the car and arrested the petitioner. The petitioner identified the place where Hansi Devi and Parvesh were dropped. 314.7 mg/dl of alcohol was found in the viscera. The co-accused Parvesh Kumar surrendered on 24.06.2025. The police arrested him. He made a disclosure statement leading to the recovery of an electric wire, which was used to electrocute the deceased. The matter is listed for recording the statements of prosecution witnesses on 20.01.2027. Hence, the status report.

4. I have heard Mr N.S. Chandel, learned Senior Advocate, assisted by Ms Shwetima Dogra, learned

counsel for the petitioner and Mr Ajit Sharma, learned Deputy Advocate General, for the respondent/State.

5. Mr N.S. Chandel, Senior Advocate, assisted by Ms Shwetima Dogra, Advocate, for the petitioner/accused, submitted that the petitioner is innocent and he was falsely implicated. As per the prosecution, the police had checked the CCTV footage and found the petitioner going towards the house of the deceased. The petitioner was identified by Abhishek Kumar and Ishant Sharma; however, they have been given up by the prosecution. There is no material to connect the petitioner to the commission of the crime. 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 Ajit Sharma, learned Deputy Advocate General for the respondent-State, submitted that the petitioner is involved in the commission of a heinous offence. He had earlier filed a bail petition, which was dismissed by the Court after holding that there was sufficient material to connect him to the commission of

the crime. The subsequent bail petition only lies when there is a change in the circumstances. The petitioner has failed to show any change in the circumstances, and the petitioner is entitled to 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. It is undisputed that the petitioner had earlier filed bail petitions, which were registered as CrMP(M) No. 1348 of 2025 and CrMP(M) No. 2687 of 2025, and were dismissed on 29.07.2025 and 12.12.2025. It was rightly submitted on behalf of the State that a subsequent bail petition lies only when there is a change in the circumstances. It was held in ***State of Maharashtra. Captain Buddhikota Subha Rao (1989) Suppl. 2 SCC 605,*** that once a bail application has been dismissed, a subsequent bail application can only be considered if there is a change of circumstances. It was observed:

> "Once that application was rejected, there was no question of granting a similar prayer. That is virtually overruling the earlier decision without there being a change in the fact situation. And

> when we speak of change, we mean a substantial one, which has a direct impact on the earlier decision and not merely cosmetic changes, which are of little or no consequence. 'Between the two orders, there was a gap of only two days, and it is nobody's case that during these two days, drastic changes had taken place necessitating the release of the respondent on bail. Judicial discipline, propriety and comity demanded that the impugned order should not have been passed, reversing all earlier orders, including the one rendered by Puranik, J., only a couple of days before, in the absence of any substantial change in the fact situation. In such cases, it is necessary to act with restraint and circumspection so that the process of the Court is not abused by a litigant and an impression does not gain ground that the litigant has either successfully avoided one judge or selected another to secure an order which had hitherto eluded him.

9. Similarly, it was held in ***Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav (2004) 7 SCC 528*** that where an earlier bail application has been rejected, the Court has to consider the rejection of the earlier bail application and then consider why the subsequent bail application should be allowed. It was held:

> "11. In regard to cases where earlier bail applications have been rejected, there is a further onus on the court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration, if the court is of the opinion that bail has to be granted then the said court will have to give specific

> reasons why in spite of such earlier rejection the subsequent bail application should be granted."

10. A similar view was taken in ***State of T.N. v. S.A. Raja, (2005) 8 SCC 380***, wherein it was observed:

> **9.** When a learned Single Judge of the same court had denied bail to the respondent for certain reasons, and that order was unsuccessfully challenged before the appellate forum, without there being any major change of circumstances, another fresh application should not have been dealt with within a short span of time unless there were valid grounds giving rise to a tenable case for bail. Of course, the principles of *res judicata* are not applicable to bail applications, but the repeated filing of bail applications without there being any change of circumstances would lead to bad precedents.

11. This position was reiterated in ***Prasad Shrikant Purohit v. State of Maharashtra (2018) 11 SCC 458***, wherein it was observed:

> **30.** Before concluding, we must note that though an accused has a right to make successive applications for the grant of bail, the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.

12. It was held in ***Ajay Rajaram Hinge v. State of Maharashtra, 2023 SCC OnLine Bom 1551,*** that a successive bail application can be filed if there is a material change in

the circumstances, which means a change in the facts or the law. It was observed:

> **7.** It needs to be noted that the right to file successive bail applications accrues to the applicant only on the existence of a material change in circumstances. The sine qua non for filing subsequent bail applications is a material change in circumstances. A material change in circumstances settled by law is a change in the fact situation or law that requires the earlier view to be interfered with or where the earlier finding has become obsolete. However, a change in circumstances has no bearing on the salutary principle of judicial propriety that successive bail applications need to be decided by the same Judge on the merits, if available at the place of sitting. There needs to be clarity between the power of a judge to consider the application and a person's right based on a material change in circumstances. A material change in circumstances creates in a person accused of an offence the right to file a fresh bail application. But the power to decide such a subsequent application operates in a completely different sphere, unconnected with the facts of a case. Such power is based on the well-settled and judicially recognised principle that if successive bail applications on the same subject are permitted to be disposed of by different Judges, there would be conflicting orders, and the litigant would be pestering every Judge till he gets an order to his liking, resulting in the credibility of the Court and the confidence of the other side being put in issue, and there would be wastage of the Court's time and that judicial discipline requires that such matter must be placed before the same Judge, if he is available, for orders. The satisfaction of material change in circumstances needs to be adjudicated by the same Judge who had earlier decided the application. Therefore, the same Judge needs to

> adjudicate whether there is a change in circumstances as claimed by the applicant, which entitles him to file a subsequent bail application."

13. It was submitted that there is insufficient material to connect the petitioner to the commission of the crime. The witnesses who had identified the petitioner in the CCTV footage were given up by the prosecution, and there is no evidence of the petitioner's identification. This submission will not help the petitioner. The certified copies of the statements recorded before the learned Trial Court show that the witness at serial number 16 was given up on 16.04.2026. The witness Chhotu Ram was given up on 19.08.2026. The witness at serial no. 2 was given up on 22.04.2026. The witnesses at serial numbers 4 and 5 were given up on 14.08.2026. Witnesses at serial nos. 20 to 23 were given up as unnecessary on 18th April 2026, and the witness at serial no. 9 was given up on 9.04.2026. The list of the witnesses has not been filed to disclose the names of the persons who have been given up. Thus, there is no material to show that the witnesses Abhishek Kumar and Ishant Sharma have been given up.

14. In any case, it would be open for the prosecution to prove the identity of the persons shown in

the CCTV footage by other evidence as well. Merely because the police had taken the assistance of Abhishek and Ishant initially was taken at an initial stage does not mean that no other person can identify the petitioner from the CCTV footage. Thus, not much advantage can be derived from the fact that witnesses Abhishek and Ishant have been given up, assuming that it is correct.

15. The Court had earlier found that there was sufficient material to connect the petitioner to the commission of the crime. It was laid down by the Hon'ble Supreme Court in ***State of M.P. v. Kajad, (2001) 7 SCC 673; 2001 SCC (Cri) 1520; 2001 SCC OnLine SC 1070,*** that it is impermissible to review the earlier order of bail in the subsequent bail petition, and the Court can only consider the change in circumstances. It was observed at page 676:

> **8.** It has further to be noted that the factum of the rejection of his earlier bail application bearing Miscellaneous Case No. 2052 of 2000 on 5-6-2000 has not been denied by the respondent. Successive bail applications are indeed permissible under the changed circumstances. But without the change in the circumstances, the second application would be deemed to be seeking a review of the earlier judgment, which is not permissible under criminal law, as has been held by this Court in ***Hari Singh Mann v. Harbhajan Singh Bajwa [(2001) 1 SCC 169: 2001 SCC (Cri) 113]*** and various other judgments.

16. Thus, the submission that no case is made out against the petitioner cannot be accepted.

17. It was submitted that the prosecution witnesses have not supported the prosecution case, and the petitioner is entitled to bail on this ground. This submission will not help the petitioner. It was laid down by the Delhi High Court in ***Dineet v. State (NCT of Delhi), 2025 SCC OnLine Del 8603,*** that it is impermissible for the bail Court to appreciate the evidence recorded during the trial and grant bail on the ground that the independent witness has not supported the prosecution's case. It was observed:

> **"17.** Addressing Mr Mahajan's submissions, it is pertinent to note that nearly the entirety of the petitioner's case rests upon the assumption that this Court may enter into witness testimonies and evidence to determine contradictions and the hostility of witnesses at the stage of bail.
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> **18.** However, it is trite that the same is not within the power of this Court at the stage of bail, as laid down in ***Satish Jaggi v. State of Chhattisgarh (2007) 11 SCC 195 : (2008) 1 SCC (Cri) 660***, paragraphs 11 and 12 of which merit reproduction:
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> > "11. On the aforesaid reasoning, the learned Chief Justice thought it fit to grant bail. Mr A.K. Ganguli, learned Senior Counsel appearing on behalf of the appellant complainant, Mr Amarendra Sharan, learned ASG appearing on behalf of CBI and Mr Rajiv

Dutta, learned Senior Counsel appearing on behalf of the State of Chhattisgarh strenuously contended that having regard to the observations and findings of the learned Chief Justice as recorded above, it clearly shows that the learned Chief Justice, while granting bail to the accused, virtually decided the case on merit, which amounts to acquitting the accused of the criminal charge levelled against him without trial. Per contra, Mr Vivek Tankha, learned Senior Counsel, contended that now the evidence is closed, so there is no question of the accused tampering with the prosecution witnesses or fleeing from justice. He further contended that now the arguments in the case have finally started, and the arguments of the prosecution are over, and only the defence is to give its reply. He, accordingly, contended that the bail granted by the learned Chief Justice need not be disturbed.

12. Normally, if the offence is non-bailable, bail can also be granted if the facts and circumstances so demand. We have already observed that in granting bail in a non-bailable offence, the primary consideration is the gravity and the nature of the offence. A reading of the order of the learned Chief Justice shows that the nature and the gravity of the offence and its impact on the democratic fabric of society were not at all considered. We are more concerned with the observations and findings recorded by the learned Chief Justice on the credibility and the evidential value of the witnesses at the stage of granting bail. By making such observations and findings, the learned Chief Justice has virtually acquitted the accused of all the criminal charges levelled against him even before the trial. The trial is in progress,

> and if such findings are allowed to stand, it would seriously prejudice the prosecution's case. At the stage of granting bail, the court can only go into the question of the prima facie case established for granting bail. It cannot go into the question of the credibility and reliability of the witnesses put up by the prosecution. The question of credibility and reliability of prosecution witnesses can only be tested during the trial."

19. By virtue of the aforementioned paragraphs from the Hon'ble Supreme Court's decision in *Satish Jaggi*, it is evinced that this Court, at the stage of Bail, cannot look into the allegations of PW2 being a witness who has turned hostile, nor apply its mind to alleged contradictions in his statement under Section 161 of the CrPC when compared with his testimony in Court, as the same would amount to appreciation of the evidentiary value of his statement and testimony, and this is an exercise that is only to be conducted during the course of trial.

20. The same has been relied upon by the Hon'ble Supreme Court in the judgment of ***State of Karnataka* v. *Sri Darshan, 2025 SCC OnLine SC 1702***, with the following paragraphs of this decision reproduced for ready reference:

> "20.2.5. *Further, such an approach of the High Court is contrary to the judicial precedents of this Court, including* Satish Jaggi *v.* State of Chhattisgarh *(supra)*, Kanwar Singh Meena *v.* State of Rajasthan[4], *wherein it was held that courts, while considering bail, should not assess the credibility of witnesses, as this function squarely lies within the domain of the trial Court. Thus, the impugned order of the High Court violates this principle by commenting on the delay in the witness statements and imputing a lack of credibility at this stage"* (emphasis supplied)

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"20.3.6. In the present case, the High Court also proceeded to analyse and discount the credibility of certain prosecution witnesses and forensic material. It observed contradictions in the eyewitness statements concerning the overt acts of the accused (para 26). It expressed doubts about the prosecution's explanation for the delay in recording the statements of CW. 76 and CW. 91 (para 27). It questioned the timing of the doctor's supplementary opinion and weighed its evidentiary worth (para 31). *As already pointed out, the credibility or reliability of witnesses is a matter for the trial Court to determine after full-fledged cross-examination. It is a trite law that statements recorded under section 161 Cr. P.C. are not substantive, and their evidentiary value can only be determined after cross-examination during trial. Any opinion rendered at the bail stage risks prejudging the outcome of the trial and must be avoided. Thus, the court's assessment of these aspects amounts to a premature appreciation of the probative value of prosecution evidence.*" (emphasis supplied)

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"24. On a cumulative analysis, it is evident that the order of the High Court suffers from serious legal infirmities. The order fails to record any special or cogent reasons for granting bail in a case involving charges under Sections 302, 120B, and 34 IPC. Instead, it reflects a mechanical exercise of discretion, marked by significant omissions of legally relevant facts. *Moreover, the High Court undertook an extensive examination of witness statements at the pre-trial stage, highlighting alleged contradictions and delays - issues that are inherently matters for the trial Court to assess through cross-examination. The trial Court alone is the appropriate forum to evaluate the credibility and reliability of witnesses.*

> Granting bail in such a serious case, without adequate consideration of the nature and gravity of the offence, the accused's role, and the tangible risk of interference with the trial, amounts to a perverse and wholly unwarranted exercise of discretion. The well-founded allegations of witness intimidation, coupled with compelling forensic and circumstantial evidence, further reinforce the necessity for cancellation of bail. Consequently, the liberty granted under the impugned order poses a real and imminent threat to the fair administration of justice and risks derailing the trial process. In light of these circumstances, this Court is satisfied that the present case calls for the exercise of its extraordinary jurisdiction under Section 439(2) Cr. P.C." (emphasis supplied)
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> **21.** Drawing inspiration from the judgment in *Darshan*, the hostility of a witness cannot be interpreted as an automatic declaration of the prosecution's case as unconvincing, and thereby, in essence, result in the conduct of a mini-trial at the stage of bail and return findings upon the *ex-facie* merit of the accused's innocence/guilt.

18. It was laid down by the Hon'ble Supreme Court in ***X Vs. State of Rajasthan MANU/SC/1267/2024*** that ordinarily, in serious offences, the Trial Court or the High Court should not entertain the bail application of the accused after the commencement of the trial and grant bail because of some discrepancy in the testimony. It was observed: -

> "14. Ordinarily, in serious offences like rape, murder, dacoity, etc., once the trial commences

> and the prosecution starts examining its witnesses, the Court, be it the Trial Court or the High Court, should be loath to entertain the bail application of the Accused.
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> 15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete, by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.
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> 16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach its conclusion, which may either result in the conviction of the Accused or the acquittal of the Accused. The moment the High Court exercises its discretion in favour of the Accused and orders the release of the Accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only if the trial gets unduly delayed and that, too, for no fault on the part of the Accused, the Court may be justified in ordering his release on bail on the ground that the right of the Accused to have a speedy trial has been infringed."

19. Similarly, it was held by this Court in ***Suraj Singh v. State of H.P., 2022 SCC OnLine HP 268*** that the Court exercising bail jurisdiction cannot appreciate the contradictions in the evidence. It was observed:

> **10.** Petitioner has placed reliance on the statements of witnesses already recorded by the learned Special Judge, in support of his argument to the effect that, from perusal of these

> statements, reasonable grounds can be entertained for concluding prima facie innocence of the petitioner. The arguments raised on behalf of the petitioner deserve to be rejected for the reason that this Court, while dealing with the bail application, will not appreciate the evidence being recorded during the trial. Undisputedly, only some of the witnesses out of the entire list of witnesses relied upon by the prosecution have been examined. In these circumstances, it is not prudent to form any opinion as to the innocence or guilt of the petitioner based on such partial evidence.

20. It was submitted that there is a delay in the progress of the trial and the petitioner is entitled to bail on this consideration. This submission cannot be accepted. The certified copies of the statements show that statements of 12 witnesses had been recorded till 22.08.2026, and 10 witnesses had been given up. The examination of 12 witnesses and giving up of 10 witnesses does not show any delay in the progress of the trial. Further, the copies of the order sheets have not been filed to demonstrate that the delay is attributable to the prosecution or the Court and not to the petitioner. Therefore, the petitioner cannot seek bail on the ground of delay in the progress of the trial.

21. No other point was urged.

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

23. The observation made hereinbefore 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

3rd November, 2026.
(Ravinder)