IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 1864 of 2026
Reserved on: 20.11.206
Decided on: 25.11.2026

Ram Chand ....Petitioner

Versus

State of HP ....Respondent

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

For the Petitioner : M/S Narendra Guleria and Rahul Rohtagi, Advocates.

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

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 71 of 2026 dated 11.05.2026 registered at Police Station, Amb, District Una, H.P., for the commission of an offence punishable under Section 69 of Bharatiya Nyaya Sanhita (BNS), 2023.

2. It has been asserted that the petitioner is currently employed as an active service member of the Indian Army with an

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

unblemished record and has been languishing in judicial custody since his arrest on 1.09.2026. The FIR was lodged following the natural breakdown of a prolonged consensual relationship between two major adults. The petitioner had sought pre-arrest bail vide Cr.MP(M) No. 1121 of 2026, which was dismissed by the Court on 25.06.2026. The petitioner cooperated with the investigating agency and joined the investigation. A zero FIR No. 61 of 2026 was registered against the petitioner at Police Station Talwara (Punjab) to exert influence and coercion upon the petitioner and his family members. The petitioner had a bona fide intention to marry the informant, but the marriage could not be solemnised due to the family circumstances. There is a delay in reporting the matter to the police, which makes the prosecution version highly doubtful. The petitioner has roots in the society, and there is no chance of his absconding. The police have completed the investigation and filed the charge sheet before the Court, and no fruitful purpose would be served by detaining him 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 victim came in contact with the petitioner through social media. The petitioner met the victim at Daulatpur

Bazaar and promised to marry her. He would take her to various hotels and have a physical relationship with her on the promise of marriage. The victim agreed to develop a physical relationship with the petitioner because of the promise of marriage made by him. The petitioner had also introduced the victim to his mother and sister, who also promised that the petitioner and the victim would be married. The petitioner refused to marry the victim on 02.05.2026 by saying that his family members were getting him married to some other person. The victim made a complaint to the police, and the police registered the FIR. The police investigated the matter and seized various articles. The police obtained the call detail records and found that the petitioner and the victim had talked to each other frequently. Human semen was detected in the petitioner's underwear, bed sheet, and pillow cover. The result of DNA profiling is awaited. The informant made a complaint to the police stating that she had gone to Talwara on 7.07.2026 with her sister. The petitioner followed her and threatened her to withdraw the FIR registered against him. A zero FIR was registered at Police Station Amb and was transferred to Police Station Talwara. The offence committed by the petitioner is heinous. The petitioner would

2026:HHC:50807

intimidate the witnesses in case of his release on bail. Therefore, it was prayed that the present petition be dismissed.

4. I have heard Mr Narendra Guleria and Rahul Rohtagi, learned counsel for the petitioner, and Mr Ajit Sharma, learned Deputy Advocate General for the respondent State, and Mr Gurinder Singh Parmar, learned counsel for the victim.

5. Mr Narendra Guleria, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The informant has made a complaint on the failure of a romantic relationship between her and the petitioner, which is impermissible. The petitioner belongs to the armed forces, and there is no chance of his absconding. A false FIR was registered against him for intimidating the informant/victim. The police have completed the investigation and filed the charge sheet before the 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.

6. Mr Ajit Sharma, learned Deputy Advocate General for the respondent State, submitted that the petitioner had made a false promise to marry the informant and entered into a sexual

2026:HHC:50807

relationship with her. The petitioner had intimidated the victim, and he would threaten her in case of his release on bail. The trial has not yet commenced, and the release of the petitioner on bail would compromise the fair trial. Hence, he prayed that the present petition be dismissed.

7. Mr Gurinder Singh Parmar, learned counsel for the victim, submitted that the petitioner had made a false promise to marry the victim and entered into a sexual relationship with her. He intimidated the victim after she had lodged the FIR. The petitioner would intimidate the witnesses in case of his release on bail. Hence, he prayed that the present petition be dismissed.

8. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

9. 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***
>
> 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

2026:HHC:50807

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

2026:HHC:50807

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*:
>
> (*i*) *whether there is any prima facie or reasonable ground to believe that the accused had committed the offence*;
>
> (*ii*) *nature and gravity of the accusation*;
>
> (*iii*) *severity of the punishment in the event of conviction*;
>
> (*iv*) *danger of the accused absconding or fleeing, if released on bail*;
>
> (*v*) *character, behaviour, means, position and standing of the accused*;
>
> (*vi*) *likelihood of the offence being repeated*;
>
> (*vii*) *reasonable apprehension of the witnesses being influenced; and*
>
> (*viii*) *danger, of course, of justice being thwarted by grant of bail.*" (emphasis supplied)

2026:HHC:50807

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)

> "*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)

10. 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.
>
> 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...."

11. The present petition has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

12. It was specifically stated in the complaint that the petitioner met the informant and proposed to marry her. He would take her to restaurants and hotels and would maintain sexual relations with her with a promise to marry her. Subsequently, he had introduced the informant to his sisters and mother, who had also endorsed the promise made by the petitioner. The petitioner made a promise to the informant on 23.04.2026 that the ring ceremony would be organised within three days. However, he refused to enter into a marriage with the informant on 2.05.2026. These allegations *prima facie* show that the petitioner had entered into a sexual relationship with the victim by making a specific

promise to marry her and thereafter failed to fulfil the promise made by him.

13. It was submitted that the informant was involved with some other person, and this is evident from the photographs placed on record. These photographs will not help the petitioner because the face of the person has been masked in these photographs and their authenticity cannot be verified. Further, it is not known whether the photographs were taken before the informant had met the petitioner or after that. Merely taking the photograph with some person does not show the informant's involvement with that person.

14. Transcriptions of the conversation between Subhash Chand, informant and the petitioner were also placed on record. However, this conversation does not disclose anything except that the informant was called and he had declined. Thus, not much advantage can be derived from this conversation by the petitioner.

15. The status report mentions that the petitioner had intimidated the informant and an FIR has been registered regarding this incident. This report *prima facie* shows that the petitioner had intimidated the informant, and the apprehension of the

prosecution is justified that the petitioner can intimidate the witnesses in case of his release on bail. Since the evidence of the witnesses has not commenced, releasing the petitioner on bail would compromise the fair trial, which is not permissible.

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

17. 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

25th November, 2026
(Ravinder)