2026:HHC:48525

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CrMP(M) No. 1856 of 2026
Reserved on: 30.10.2026
Decided on: 03.11.2026

Sarul Kapila .... 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 Pawan Kumar Nadda, Additional Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking pre-arrest bail in FIR No. 359 of 2025 dated 20th November 2025 registered at Police Station Sadar Una, District Una for the commission of offences punishable under Section 109 (1), 115 (2), 190, 191 (2), 191 (3), and 117 (2) of Bharatiya Nyaya Sanhita (BNS), 2023.

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

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 Raizada 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 people. 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 petitioner had earlier approached this Court by filing CrMP(M) No. 268 of 2026 seeking pre-arrest bail. The Court had granted protection from arrest. It was found during the hearing that the entire incident pertaining to the FIR was captured in the CCTV footage installed in the hotel. The petitioner was not aware of the recording of the incident in the CCTV footage, and he withdrew the application for seeking pre-arrest bail. A bare perusal of the CCTV footage proves the petitioner's innocence. The petitioner and other persons had already started the car, and they were sitting in it. The informant party had shot at Ashu Puri, the deceased. He fell, and the informant party continued to shoot at him. The petitioner kept holding the shooter, even though the accomplice of the shooter had strained the petitioner's neck from behind. The petitioner acted in self-defence, and he was not an aggressor. No specific role or overt act has been attributed to the petitioner. The petitioner is a permanent resident of Punjab, District Rupnagar, Punjab, and there is no chance of his absconding. 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 Ranbir Singh had filed a written complaint before the police stating that he was called to a party to celebrate Purjinder Singh's birthday. The informant and other persons came out of the hotel after taking the meal. Ashu Puri, Sarul Kapila (the present petitioner), 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 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 it was 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, 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. The nature of the injury sustained by Purjinder was stated to be dangerous to life. The petitioner has absconded, and the proceedings for declaring him a proclaimed offender have been initiated. No other FIR has been registered against the petitioner. The petitioner is the main accused

who had attacked Parminder Singh and Purjinder Singh with a sword/khanda 20 times. They were saved by Gurjeet Maan, who had hit the petitioner with a vehicle; otherwise, he would have killed Parminder Singh and Purjinder Singh. The petitioner is to be interrogated in police custody. 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 (through VC) and Mr Hemant Thakur, learned counsel for the petitioner and Mr Pawan Kumar Nadda, 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 petitioner had boarded the vehicle, which was started. However, the informant party shot at Ashu Puri, and the petitioner went to the spot to rescue him. The petitioner had acted in self-defence, and the police have projected a concocted version before the Court. The co-accused have been released on bail, and the petitioner is also entitled to bail on the principle of parity. Therefore,

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

6. Mr Pawan Kumar Nadda, learned Additional Advocate General for the respondent-State, submitted that the petitioner is the main accused, who had inflicted multiple injuries upon Purjinder and Parminder. They were saved by Gurjeet Maan, who had hit the petitioner with his vehicle. The injured Parminder has become 100% disabled, and the injury sustained by Purjinder was dangerous to life. The incident was over after Ashu Puri was shot, and the petitioner had no justification to attack Purjinder and Parminder. The plea taken by the petitioner that he had acted in private defence is to be proved during the trial and cannot be adjudicated during these proceedings. 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 was laid down by the Hon'ble Supreme Court in ***P. Chidambaram v. Directorate of Enforcement, (2019) 9 SCC 24: (2019) 3 SCC (Cri) 509: 2019 SCC OnLine SC 1143*** that the power of pre-arrest

bail is extraordinary and should be exercised sparingly. It was observed:

> "69. Ordinarily, an arrest is a part of the procedure of the investigation to secure not only the presence of the accused but also several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power, and the same has to be exercised sparingly. The privilege of pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; the possibility of the applicant fleeing justice and other factors are considered to decide whether it is a fit case for the grant of anticipatory bail. Grant of anticipatory bail to some extent interferes with the sphere of investigation of an offence, and hence, the court must be circumspect while exercising such power for the grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule, and it has to be granted only when the court is convinced that exceptional circumstances exist to resort to that extraordinary remedy."

9. This position was reiterated in ***Srikant Upadhyay v. State of Bihar, 2024 SCC OnLine SC 282,*** wherein it was held:

> "25. We have already held that the power to grant anticipatory bail is extraordinary. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of the imagination, be said that anticipatory bail is the rule. It cannot be the rule, and the question of its grant should be left to the cautious and judicious discretion of the Court, depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious, as the grant of interim protection or protection to the accused in serious cases may lead to a miscarriage of justice and may hamper the investigation to a great extent, as it may sometimes lead to tampering or

> distraction of the evidence. We shall not be understood to have held that the Court shall not pass interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest, and we say that such orders shall be passed in eminently fit cases."

10. It was held in ***Pratibha Manchanda v. State of Haryana, (2023) 8 SCC 181: 2023 SCC OnLine SC 785*** that the Courts should balance individual rights, public interest and fair investigation while considering an application for pre-arrest bail. It was observed:

> "21. The relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tightrope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each case becomes crucial to ensure a just outcome."

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

12. The status report specifically mentions that Sarul Kapila (the present petitioner) had snatched a revolver from Parminder and tried to attack Gurjinder. Sarul Kapila thereafter inflicted injuries to

Purjinder and Parminder with a sword/khanda 20 times on their face and head. Ashutosh instigated Sarul Kapila to kill Purjinder and Parminder. Gurjeet Maan hit Sarul Kapila, and the sword carried by Sarul fell. Ashutosh picked up the sword and took it away.

13. The status report specifically mentions that the petitioner had inflicted injuries on the face and head of Purjinder and Parminder with the sword/khanda 20 times. The status report further mentions that Parminder has become 100% disabled because of the injuries, and the nature of the injuries sustained by Purjinder was found to be dangerous to life. *Prima facie*, the status report establishes the petitioner's involvement in the commission of the crime.

14. It was submitted that the petitioner had acted in the exercise of his right of private defence. This submission will not help the petitioner. Section 108 of Bharatiya Sakshya Adhiniyam (BSA) clearly provides that when a person is accused of an offence, the burden of proving the existence of circumstances bringing his case within any of the general exceptions in the Bharatiya Nyaya Sanhita or within any special exception or proviso will be upon him, and the Court will presume the absence of any such circumstance. Thus, as

per the legislative mandate, the Court has to presume the absence of any circumstance bringing the petitioner's case within the exception or proviso, and the burden is upon the petitioner to show that his case falls within the proviso or the exception.

15. In the present case, the status report and the CCTV footage show that Sarul Kapila had snatched the pistol from Parminder, and he had tried to attack Purjinder with the blunt side of the revolver. Therefore, there was no threat to any person because Parminder was disarmed; however, Sarul Kapila inflicted injuries by means of a sword on Parminder and Purjinder. Ashutosh instigated the petitioner to kill them. The other accused also gave beatings to the other members of the informant party. This clearly shows that the petitioner and the other persons shared a common intention to take revenge for the death of Ashu Puri. Hence, the submission that the petitioner had acted in the exercise of his right of private defence cannot be accepted.

16. It was submitted that the police have filed the charge sheet, and the petitioner's custodial interrogation is not required. Therefore, the petitioner is entitled to bail. This submission will not help the petitioner. It was laid down by the Hon'ble Supreme Court

in ***State of A.P. v. N. Sanjay, 2025 SCC OnLine SC 1747,*** that pre-arrest bail cannot be granted because the charge sheet has been filed or the custodial interrogation is not required. It was observed at page 397:

> **"26.** In a litany of pronouncements, from ***Niranjan Singh v. Prabhakar Rajaram Kharote, (1980) 2 SCC 559*** and ***Vilas Pandurang Pawar v. State of Maharashtra, (2012) 8 SCC 795*** to ***Atulbhai Vithalbhai Bhanderi v. State of Gujarat, (2023) 17 SCC 521***, the Court cautioned against elaborately discussing/detailing the evidence or rendering findings basis the same when seized with the question of considering whether or not to grant bail. Indeed, as held by us in ***State of Haryana v. Dharamraj, (2023) 17 SCC 510***:
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> > *'**11.*** Yet, much like bail, *the grant of anticipatory bail is to be exercised with judicial discretion. The factors illustrated by this Court through its pronouncements are illustrative and not exhaustive. Undoubtedly, the fate of each case turns on its own facts and merits....'* (emphasis supplied)
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> **27.** In ***Sumitha Pradeep v. Arun Kumar C K, (2022) 17 SCC 391***, it was held:
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> > *'**12.*** We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the *complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO, and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects*

to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked, and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, it by itself cannot be a ground to grant anticipatory bail.' (emphasis supplied)

28. In ***P Krishna Mohan Reddy v. State of Andhra Pradesh, 2025 SCC OnLine SC 1157***, it was stated:

'***23.*** As held by this Court in ***Sumitha Pradeep v. Arun Kumar C.K., (2022) 17 SCC 391,*** that *it would be preposterous as a proposition of law to say that if custodial interrogation is not required, that by itself is sufficient to grant anticipatory bail. Even in cases where custodial interrogation may not be required, the court is obliged to consider the entire case put up by the State, more particularly, the nature of the offence, the punishment provided in law for such offence, etc.*

24. It is needless to say that *for the purpose of custodial interrogation, the investigating agency has to make out a prima facie case at the time when remand is prayed for. Whether any case for police remand is made out or not, it is for the Court concerned to look into it.*

25. In such circumstances, referred to above, *we are of the view that we should not come in the way of the investigating agency at this point and the investigation should be permitted to proceed further.*' (emphasis supplied)

17. This position was reiterated in ***Ashok Kumar vs Union Territory of Chandigarh Special Leave Petition (Crl.) No.9949/2023) decided on 01.03.2024*** wherein it was observed:

> "12. There is no gainsaying that custodial interrogation is one of the effective modes of investigating the alleged crime. It is equally true that just because custodial interrogation is not required, that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature."

18. Therefore, the petitioner cannot be released on bail simply because a charge sheet has been filed before the Court.

19. The offence under Section 109 of the BNS is punishable with imprisonment for life. Thus, the offence is grave, and the punishment is severe. 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***]

> "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."

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.

20. The police have specifically mentioned in the status report that the petitioner's custodial interrogation is required. This has to be accepted as correct considering the gravity of the offence. It was laid down by the Hon'ble Supreme Court in ***State Versus Anil***

Sharma (1997) 7 SCC 187 that where custodial interrogation is required, pre-arrest bail should not be granted. It was observed:

> "6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well-ensconced with a favourable order under Section 438 of the Code. In a case like this, effective interrogation of a suspected person is of tremendous advantage in disinterring much useful information and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often, interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offender"

21 A similar view was taken by the Delhi High Court in ***Mukesh Khurana v. State (NCT of Delhi), 2022 SCC OnLine Del 1032,*** wherein it was observed: -

> **"13.** One of the significant factors in determining this question would be the need for custodial interrogation. Without a doubt, custodial interrogation is more effective for questioning a suspect. The cocoon of protection afforded by a bail order insulates the suspect, and he could thwart interrogation, reducing it to futile rituals. But it must also be kept in mind that while interrogation of a suspect is one of the basic and effective methods of crime solving, the liberty of an individual also needs to be balanced out."

22. It was held in ***P Chidambaram*** (supra) that the grant of pre-arrest bail may hamper the investigations. It was observed:

> **"83.** Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting useful information, and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences, would definitely hamper the effective investigation. Having regard to the materials said to have been collected by the respondent Enforcement Directorate and considering the stage of the investigation, we are of the view that it is not a fit case to grant anticipatory bail."

23. No other point was urged.

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

25. 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

03rd November, 2026
(Ravinder)