IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr. MP(M) No.1929 of 2026

Date of Decision: 05.11.2026

Arun Sharma **.....Petitioner**

Versus

State of Himachal Pradesh **.....Respondent**

Coram:
The Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?[1]

For the Petitioner: Mr. Ajay Kochhar, Senior Advocate with Mr. Anubhav Chopra & Ms. Swati Sharma, Advocates.

For the Respondent: Mr. Rajan Kahol, Additional Advocate General with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General.

ASI Santosh Kumar, PS Chowari, District Chamba, Himachal Pradesh, present in person along with record.

Sandeep Sharma, J. *(Oral)*

Bail petitioner, namely Arun Sharma, who is behind the bars since 26.04.2026, has approached this Court in the instant proceedings filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of regular bail in case FIR No.36/2026, dated 26.04.2026, under Sections 108 & 3(5) of Bharatiya Nyaya Sanhita, 2023, registered at Police Station Chowari, District Chamba, Himachal Pradesh.

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[1] Whether reporters of the local papers may be allowed to see the judgment?

2. In terms of order dated 30.10.2026, respondent/ State has filed status report and ASI Santosh Kumar, has come present along with record. Record perused and returned.

3. Close scrutiny of status report/record reveals that on 25.04.2026, Police Station Tanda, District Kangra, received telephonic information that person namely Simran, daughter of late Shri Ravinder Sharma, resident of Jandrah, Post Office Tanuhatti, Teshil Bhatiyat, District Chamba, was brought for treatment on account of her having consumed poison and had passed away. Police, after having reached the spot, recorded the statement of Smt. Suroj Kumari, mother of the deceased Simran, who alleged that she has three daughters, out of which eldest daughter, namely Samriti is married, whereas two daughters, namely Sania and Simran used to live with her. She alleged that her brother-in-law, Arun and sister-in-law, Tapasya, along with their son, Rushel, used to quarrel with her two daughters oftenly and they also used to hurl abuses. She alleged that on account of constant ill-treatment meted out to them by the persons named hereinabove, her daughters remained under mental stress and tension. She alleged that on 14.04.2026, her daughter Simran consumed poison, whereafter she was brought to Apex Hospital Chowari, from where she was further referred to RPGMC Tanda. She alleged that while deceased Simran was brought to Tanda in ambulance, she disclosed to her that she had committed suicide after being harassed and tortured by Arun, Tapasya, and Rushal.

She also alleged that her daughter also informed her that she had written a suicide note, which was lying at home. In the afore background, FIR, as detailed hereinabove, came to be lodged against persons namely Arun, Tapasya, and Rushel and since then, they are behind bars.

4. Since challan stands filed in the competent Court of law and nothing remains to be recovered from the bail petitioner, he has approached this Court in the instant proceedings for grant of regular bail.

5. Mr. Ajay Kochhar, learned Senior Counsel representing the petitioner duly assisted by Mr. Anubhav Chopra & Ms. Swati Sharma, Advocates, states that there is no evidence adduced on record suggestive of the fact that petitioner herein ever instigated/ abetted the deceased to commit suicide, which ingredients are otherwise essential to prove the offence under Section 108 of Bharatiya Nyaya Sanhita. While making this Court peruse contents of FIR vis-à-vis suicide note allegedly written by the deceased, Mr. Kochhar states that though in suicide note, deceased mentioned that her mother was constantly harassed by the persons namely Arun, Tapasya and Rushel, whereas complainant, while getting her statement recorded under Section 173 of Bharatiya Naagarik Suraksha Sanihta, alleged that her three daughters were under mental stress and tension on account of ill-treatment meted out to them by the accused named in the FIR. Lastly, Mr. Kochhar contends that since allegation of

abetment/instigation, if any, at the behest of petitioner is yet to be proved in accordance with law by leading cogent and convincing evidence, coupled with the fact no recovery is to be effected from the petitioner, no fruitful purpose would be served by keeping the bail-petitioner behind bars, who is 20 years old and has recently passed Plus Two examination.

6. To the contrary, Mr. Rajan Kahol, learned Additional Advocate General, while fairly admitting factum of filing of challan in the competent Court of law, states that though nothing remains to be recovered from the bail-petitioner, but keeping in view the gravity of offence, alleged to have been committed by him, he does not deserve any leniency. He states that bare perusal of suicide note left behind by the deceased itself suggests that entire family, which also includes present bail-petitioner, used to ill-treat and hurl abuses at the deceased Simran. He states that in the case at hand, material document is suicide note, not the FIR, which admittedly came to be lodged at the behest of mother of the deceased. He stated that since entire family has been held responsible for suicide of the deceased in the suicide note, no illegality can be said to have been committed by the Police, while registering the case under Section 108 of Bharatiya Nyaya Sanihta against the petitioner. He states that since petitioner is accused of heinous crime punishable under Section 108 of Bharatiya Nyaya Sanhita, having adverse impact on society, it may not be in the interest of justice to enlarge him

on bail, because in that event, he may not only flee from justice, but may tamper with the prosecution evidence. He states that RFSL report with regard to recordings allegedly contained in the mobile phones of the accused named in the FIR are yet to be received by the police from RFSL.

7. Having heard learned counsel representing the parties and perused material available on record, this Court finds that deceased Simran, i.e. daughter of the complainant Saroj, committed suicide on 14.04.2026, after her having consumed some cough syrup. Though cough syrup was allegedly consumed on 14,04.2026, but factum of the deceased having left behind a suicide note came to the notice of Police only at the time of lodging of FIR on 25.04.2026, after the deceased died at RPGMC Tanda. If the statement of the complainant Saroj is read in its entirety, it clearly suggests that factum with regard to suicide note left behind by the deceased and consuming of poison by the deceased came to her notice on 25.04.2026, when deceased was being taken in the ambulance to RPGMC Tanda. There is no record of treatment, if any, given to the deceased at first instance at Chowari, where she remained admitted w.e.f. 17.04.2026 to 25.04.2026. Allegedly cough syrup was consumed by the deceased on 14.04.2026, but for the first time, she was taken to hospital at Chowari on 17.04.2026 and there she remained admitted till 25.04.2026. It appears that at Chowari, she was being treated for having developed some chest infection. Factum

with regard to deceased allegedly having consumed poison never came to the notice of treating doctor at Chowari and the complainant, rather it came to the notice of the complainant only on 25.04.2026, when the deceased was being shifted to Tanda in the ambulance, that she had consumed poison. Admittedly, the post-mortem report reveals that the deceased died due to poisoning. Though as per statement of the complainant, deceased had written suicide note much prior to date of her death, but it is not understood that how and for what reasons, deceased failed to bring such fact to the notice of complainant, while she was under treatment at Chowari, District Chamba at first instance. Since report of handwriting expert clearly reveals that suicide note is in the handwriting of the deceased, this Court is not persuaded to agree with the learned Senior counsel for the petitioner that possibility of the suicide note having been written after the death of the deceased cannot be ruled out.

8. However, having taken note of initial statement of complainant under Section 173 of Bharatiya Nyaya Sanhita, wherein she stated that her daughters, including deceased, were being constantly harassed and tortured by the persons namely Arun, Tapasya, and Rushal,this Court is persuaded to agree with Sh. Ajay Kochhar, learned senior counsel representing the petitioner, that there is a material contradiction with regard to allegation of constant harassment and ill-treatment, if any, meted out to the deceased and her sisters. Complainant alleged that her

deceased daughter committed suicide on account of constant maltreatment at the hands of Arun, Tapasya and Rushel, whereas deceased, in her suicide note, stated that she was compelled to commit suicide on account of continuous mental harassment of her mother at the hands of persons namely Arun and Tapasya. If the suicide note is read in its entirety, there is no mention of the present bail-petitioner Rushel, rather deceased had specifically mentioned Arun and Tapasya. At one place, deceased held the entire family of Arun and Tapasya responsible for her death. If the suicide note is read in its entirety, it clearly reveals that deceased was upset on account of maltreatment given to her mother by someone and since none, including Arun, Tapasya and bail-petitioner, came for her help, rather afore persons also attempted to make a video of the deceased viral, she committed suicide. There is only vague and general allegation of harassment against the above-named persons. Needless to say, to constitute an offence under Section 108 of Bharatiya Nyaya Sanhita, prosecution is under obligation to prove abetment, which is defined under Section 45 of Bharatiya Nyaya Sanihta. A person abets the doing of a thing, who instigates any person to do that thing; or engages with one or more other person or persons in any conspiracy for the doing of that thing, or intentionally aids, by any act or illegal omission, the doing of that thing.

9. As has been observed herein above, careful reading of suicide note in entirety suggests that deceased was upset on account of silence of Arun, Tapasya and Rushel, while her mother was being meted some maltreatment by some person, but ***"whether such act would amount to abetment/instigation?"*** is a question to be dealt by learned trial Court in totality of evidence led on record by prosecution. At this stage, it would be apt to take note of judgment passed by the Hon'ble Apex Court in ***S. S. Chheena v. Vijay Kumar Mahajan and another, (2010) 12 Supreme Court Cases 190***. Relevant para of the afore is extracted hereinbelow:-

> *"25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by this Court is clear that in order to convict a person under Section 306 IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide."*

10. Most importantly, in afore judgment, it has been held that without there being positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act

must have been intended to push the deceased into such a position that he committed suicide.

11. Reliance is also placed upon judgment passed by Hon'ble Apex Court in ***M. Arjunan Vs. State Represented By Its Inspector of Police, (2019) 3 Supreme Court Cases 315***, wherein Hon'ble Apex Court interpreted that essential ingredient of offence under Section 306 of Indian Penal Code (corresponding to Section 108 of Bharatiya Nyaya Sanihta). In afore judgment, Hon'ble Apex Court held that the act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide, rather there should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Relevant para of the afore is extracted hereinbelow:-

> *"7) The essential ingredients of the offence under Section 306 I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 I.P.C."*

12. Complainant, on one hand, has alleged that her daughter committed suicide on account of her being constantly harassed and tortured by the accused named in the FIR, but, on

the other hand, deceased, in her suicide note, stated that accused named in the FIR used to harass her mother. ***"Whether alleged act of harassing mother can be said to be an act of abetment/ instigation, if any, at the behest of the accused named in the FIR?"*** is a question to be decided by the court below in totality of evidence, but certainly, taking note of the fact that there is no specific mention of the bail-petitioner in suicide note, this court sees no reason to let the bail-petitioner incarcerate in jail for indefinite period during trial, especially when it is not in dispute that on account of incarceration of his parents, there is none to look after his younger brother, aged seven years.

13. Hon'ble Apex Court as well as this Court in catena of cases have repeatedly held that one is deemed to be innocent till the time guilt, if any, of his/her is not proved in accordance with law. In the case at hand also, guilt, if any, of the accused is yet to be proved in accordance with law, by leading cogent and convincing material on record, as such, his incarceration in jail for indefinite period is clear cut violation of fundamental rights guaranteed under Article 21 of the Constitution of India. Apprehension expressed by the learned Additional Advocate General that in the event of petitioner's being enlarged on bail, he may flee from justice, can be best met by putting the bail petitioner to stringent conditions as has been fairly stated by the learned counsel for the petitioner.

14. Hon'ble Apex Court in Criminal Appeal No. 227/2018, ***Dataram Singh vs. State of Uttar Pradesh &Anr***decided on 6.2.2018 has held that freedom of an individual cannot be curtailed for indefinite period, especially when his/her guilt is yet to be proved. It has been further held by the Hon'ble Apex Court in the aforesaid judgment that a person is believed to be innocent until found guilty.

15. Hon'ble Apex Court in ***Sanjay Chandra versus Central Bureau of Investigation (2012)1 Supreme Court Cases 49*** has held that gravity alone cannot be a decisive ground to deny bail, rather competing factors are required to be balanced by the Court while exercising its discretion. It has been repeatedly held by the Hon'ble Apex Court that object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative.

16. In ***Manoranjana Sinh alias Gupta versus CBI***, ***(2017) 5 SCC 218***, Hon'ble Apex Court has held that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise also, normal rule is of bail and not jail. Apart from above, Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment, which conviction will

entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

17. The Apex Court in ***Prasanta Kumar Sarkar versus Ashis Chatterjee and another (2010) 14 SCC 496***, has laid down various principles to be kept in mind, while deciding petition for bail viz. prima facie case, nature and gravity of accusation, punishment involved, apprehension of repetition of offence and witnesses being influenced.

18. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, petitioner has carved out a case for grant of bail. Accordingly, present petition is allowed and the petitioner is ordered to be enlarged on bail in aforesaid FIR, subject to his furnishing personal bond in the sum of Rs.2,00,000/- with two local sureties in the like amount to the satisfaction of concerned Chief Judicial Magistrate/trial Court, with following conditions:

(a) he shall make himself available for the purpose of interrogation, if so required and regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;

(b) he shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;

(c) he shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or the Police Officer; and

(d) he shall not leave the territory of India without the prior permission of the Court.

19. It is clarified that if the petitioner misuses the liberty or violates any of the conditions imposed upon him, the

investigating agency shall be free to move this Court for cancellation of the bail.

20. Any observations made hereinabove shall not be construed to be a reflection on the merits of the case and shall remain confined to the disposal of this application alone. The petition stands accordingly disposed of.

21. The petitioner is permitted to produce copy of the order downloaded from the High Court Website and the trial court shall not insist for certified copy of the order, however, it may verify the order from the High Court website or otherwise.

(Sandeep Sharma)
Judge

November 05, 2026
(*shankar)*