IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MP(M) No. 2029 of 2026
Decided on 03rd November, 2026
Uploaded on 03rd November, 2026

Durgesh Kumar Saini **…Petitioner**

Versus

State of HP **…..Respondent**

Coram

Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.
[1]Whether approved for reporting?

For the petitioner : **Mr. Pawan K. Thakur, Mr. Vishav Vijay Singh & Mr. Nikhil Gangrokta, Advocates.**

For the respondent/State : **Mr. Rajpal Thakur, Additional Advocate General, assisted by IO ASI Jaswinder Singh, PS Sadar Nahan, District Sirmaur.**

Chirag Bhanu Singh, Judge (Oral)

The petitioner has preferred an application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, seeking post-arrest bail in case FIR No. 88 of 2026, dated 10.06.2026, registered at Police Station Sadar Nahan, District Sirmaur, H.P., under Sections 109, 118(2), 126(2), 49 & 3(5) of the Bharatiya Nyaya Sanhita, 2023

(hereinafter referred to as the “BNS”).

2. The facts which emerge from the status report so filed by the respondent-State are that on 10.06.2026, the injured had reported to the police that one of his the brothers Durgesh Kumar Saini(the petitioner) and his Bhabhi-Neelam, the wife of one of his pre-deceased brother had tried to kill him at about 10:00 AM, while some work was going on, on his self acquired plot existing next to the ancestral land of the parties. The present petitioner and Neelam-co-accused had reached at the plot, where the complainant had started some work and asked the labourers to stop the work. Since they had not stopped the work, the accused-Durgesh Kumar Saini (the petitioner), on the instigation of the co-accused Neelam, had attacked him with a chopper/Darat (sickle with a long handle), after having picked up the same from the shop of one Rakesh. When the accused tried to hit him with the chopper on his neck, he had stopped him by placing his hand in front to counter the attack and in the process, his thumb of the right hand was cut and he had also sustained 16 stitches on the left hand.

3. Based on the aforesaid FIR, the petitioner along with co-accused Neelam had come to be arrested on 10.06.2026. Presently, the petitioner is in judicial custody. The co-accused Neelam already stands enlarged on bail.

4. I have heard the learned counsel for the parties and gone through the record meticulously.

5. A perusal of the MLC shows that the injuries on the person of the complainant were an amputated right thumb and a laceration in the left palm (7 cm X 0.5 cm). Though, initially the doctor had opined that the injuries were dangerous to life, however, on 18.06.2026 after having gone through the opinion of the surgery and ortho departments, the doctor had eventually opined that the both injuries were not dangerous to life.

6. The perusal of the record further shows that the charge-sheet has already been filed. Admittedly, the culmination of the trial is thus likely to take sufficient time. Pre-trial incarceration is otherwise generally loathed by the Courts, as has been held by the Hon'ble Supreme Court in catena of decisions including ***Union of India vs. K.N. Nazeeb 2021 (3)***

SCC 713 & Javed Gulam Nabi Shaikh vs. State of Maharashtra & ***Another (Criminal Appeal No.2787 of 2024 decided on 03.07.2024).***

7. “Bail, not jail” is the golden thread which has been running right through the various judgments rendered by the Hon'ble Supreme Court starting from ***Gurbaksh Singh Sibbia & Others v. State of Punjab, (AIR 1980 SC 1632)***, which has consistently been followed till the decision rendered in ***P. Chidambaram v. Directorate of Enforcement, (AIR 2019 SC 4198)***. The object of granting bail was further elucidated in ***Sanjay Chandra & Others v. Central Bureau of Investigation, (AIR 2012 SC 830)***. The Hon'ble Supreme Court has further reiterated that grant of bail was a general rule, as was categorically held in ***Dataram Singh v. State of Uttar Pradesh, [(2018) 3 SCC 22 : AIR 2018 SC 980]*** .

8. The Hon’ble Supreme Court and this Court, in a catena of decisions, have repeatedly held that an accused is presumed to be innocent until proven guilty. The trial is still at its inception and is likely to take sufficient time. That seeing to the nature of injuries and the final opinion given by the doctor, it

would not be in the interest of justice to continue the petitioner incarceration.

9. For all the reasons discussed hereinabove, and moreso, keeping in view the nature of injuries sustained, the bail petition is thus allowed. As a sequel, the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the tune of Rs.50,000/- with two local sureties of the like amount, to the satisfaction of the learned trial Court subject to the following conditions:-

i) That the petitioner shall not tamper with the prosecution evidence nor intimidate, threaten or coerce the witnesses conversant with the facts of the case;

ii) That the petitioner shall put in appearance before the Investigating Officer or the Court as and when directed;

iii) That the petitioner shall not leave the territory of India without the express permission of the Court, he shall surrender passport, if any, before the investigating agency;

iv) The bail petitioner shall not indulge in any similar offence hereinafter.

10. The observations, made hereinabove, shall not be taken, as an expression of opinion, on the merits of the case, as these observations are confined only for the purposes of the disposal of the present petition.

11. The petition stands accordingly disposed of. A copy of this order be sent to the Jail Superintendent, Model Central Jail Nahan, District Sirmaur, H.P. and the learned Trial Court by **FASTER.**

12**.** Petition stands disposed off in the aforesaid terms, so also the pending miscellaneous applications, if any.

(Chirag Bhanu Singh)
Judge

03rd November, 2026
(Ritu)

RITU RANI
Digitally signed by RITU RANI
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