IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Cr.MP(M) No.2061 of 2026
Reserved on: 28.10.2026
Decided on : 29.10.2026
Uploaded on: 29.10.2026

Sham Lal ...Petitioner

Versus

State of H.P. .....Respondent

Coram:

The Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.

Whether approved for reporting? [1]

For the Petitioner : Mr. Mukesh Bansal, Advocate.

For the Respondent : Mr. Lokender Kutlehria, Additional Advocate General.

Chirag Bhanu Singh, Judge

The petitioner has preferred the present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the 'BNSS'), seeking post arrest bail for having allegedly committed offences punishable under Sections 65(1) of the Bharatiya Nyaya Sanhita 2023 (hereinafter referred to as the 'BNS'), 2023 and Sections 6, 21(1) & 21(2) of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the 'POCSO Act'),

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

registered vide FIR No.18 of 2025, dated 18.08.2025, at Police Station Pangi (Killar), District Chamba, H.P.

2. The facts which emerge from the status report, so filed by the State is that on 18.08.2025 the prosecutrix had got recorded a statement that in the month of July, 2024, when, she had gone to see her mother, she had met the co-accused Deepak son of Ashok Kumar at Killar. The said co-accused Deepak had taken her to his quarter and had sexually ravished her on the pretext of marriage. However, her mother passed away around 15.12.2024. In the meanwhile, she had also conceived.

3. On 18.03.2025, she had telephonically informed the co-accused Deepak that she was in pain. In the meanwhile, she had delivered a child at Sohal Nala and the accused Deepak had also reached there. She had thereafter stayed with him in his quarters at Gulabgarh for 6-7 days. Thereafter, he had gone to get some money from his parental house, but never returned. Since the said accused Deepak never returned back, even she had handed over the child to one Paali wife of Satish because she has no money for milk. Thereafter, she had married one Sham Singh.

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

5. The learned counsel appearing for the petitioner has with vehemence urged that the main accused in the present case is the accused Deepak. The prosecutrix had neither made any allegations in the FIR, nor she had uttered a word against the petitioner/accused even while deposing in the Court.

6. The learned counsel appearing for the petitioner/ accused has further placed reliance upon the testimony of prosecutrix herself, which has been placed on record to contend that the petitioner/accused had never done any wrong act with her, nor he had ever sexually ravished her.

7. The recital of the FIR also shows that the petitioner/accused had not been even named by the prosecutrix. Her testimony, as PW-1 before the learned trial Court is also clear, candid and categorical. No sexual offence has been attributed to the present petitioner, even in her sworn testimony before the learned trial Court.

8. Learned Additional Advocate General has though vehemently opposed the bail petition, more particularly, seeing

to the facts that the charges have been framed against the petitioner/accused under the POCSO Act.

9. The perusal of the documentary evidence including the recital and the statement of the prosecutrix herself clearly goes to show that no overt act has been attributed to the present petitioner/accused. Even otherwise, the DNA report on record, to the contrary also goes to show that the co-accused Deepak is the biological father of the child born to the prosecutrix. The only evidence worth the name against the present petitioner is that some traces of the DNA found on the undergarment of the petitioner matches the DNA profile of the victim.

10. Over and apart, there is no other evidence on record. That alone may not, however suffice to connect the petitioner/accused with the alleged offence, more particularly seeing to the categorical statement of the prosecutrix herself before the learned trial Court. Even in the FIR also she has not attributed any overt act to the petitioner/accused. The statement of the prosecutrix has already been examined and as such, no fruitful purpose would be served by detaining the petitioner behind the bars.

11. Thus, keeping in view the circumstances discussed herein above, it is clear that the custodial interrogation of the petitioner is no more necessary. The discretion of the bail can thus be exercised in his favour, though subject to strict terms.

12. Undoubtedly, the trial is likely to take time and the nature of allegations do not entail the incarceration of the petitioner any further.

13. The 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.25,000/- with two 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;*

14. 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.

15. The petition stands accordingly disposed of. A copy of this order be sent to the Superintendent, District Jail Chamba, District Chamba, H.P., and the learned Trial Court by FASTER.

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

(Chirag Bhanu Singh)
Judge

October 29, 2026
(subhash sharma)

SHAMSH TABREZ

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