IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.MP(M) No.2084 of 2026
Decided on: 28.10.2026

Satish Kumar ……..Petitioner

Versus

State of Himachal Pradesh ….Respondent

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

For the Petitioner	**:**	Mr. K.S. Gill & Mr. Pankaj Mehta, Advocates.
For the Respondent	**:**	Mr. Rajan Kahol, Additional Advocate General with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General. HC Deepak Kumar No.39, PS Baddi, District Solan, Himachal Pradesh, present in person along with record.

Sandeep Sharma, Judge (oral):

Bail petitioner namely Satish Kumar, who is behind bars since 05.03.2026, has approached this Court by way of present petition filed under Section 483 of Bharatiya Nagrik Suraksha Sanhita, for grant of regular bail in case FIR No.56 of 2026, dated 01.03.2026, registered at Police Station Baddi, District Solan, Himachal Pradesh, under Sections 109 & 3(5) of Bharatiya Nyaya Sanhita and Sections 25 of Arms Act.

2. Pursuant to order dated 14.10.2026, respondent-State has filed status report and HC Deepak Kumar has come present with record. Record perused and returned.

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

3. Close scrutiny of record/status report reveals that on 28.02.2026, complainant Gurbachan Singh lodged a complaint at Police Station detailed hereinabove, alleging therein that at about 06:00 p.m. on the same day, while he along with Balbir Singh had reached near his quarter, a Creta car came from Baddi University side and stopped in front of Balbir Singh, who at relevant time was parking his motorcycle. He alleged that five persons, who at relevant time were carrying pistols, alighted from the afore car and started firing gunshots at Balbir Singh. He alleged that he along with Kamal and Pawan attempted to rescue Balbir Singh and in the meantime, three of the assailants, whose names subsequently transpired to be Shiv Pandit, Rajan and Rohit, succeeded in fleeing from the spot. Complainant named hereinabove alleged that he has suspicion that persons namely Lalit and David herein, who are the residents of Village Makhnumajra, had hatched conspiracy with person named hereinabove to kill Balbir Singh and in that regard, for the last few days, they had been conducting reconnaissance of the area and monitoring the movements of Balbir Singh. In view of aforesaid statement of the complainant, persons named hereinabove, who admittedly were not present at the spot at the time of alleged firing on Balbir Singh, came to be named in the FIR. As per status report, bail petitioner herein proclaimed on Facebook that he had

got Balbir Singh, killed, because in past, Balbir Singh had attacked his cousin. On the basis of the aforesaid proclamation on Facebook, petitioner also came to be named in FIR and since 05.03.2026, he is behind bars. Co-accused, namely David and Lalit, already stand enlarged on bail granted by this Court.

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

5. Mr. K.S. Gill, learned counsel for the petitioner, states that petitioner has been falsely implicated. He states that there is no evidence worth credence collected on record by the prosecution suggestive of the fact that bail-petitioner had prior knowledge, if any, of the alleged incident or conspiracy hatched by five persons, who had allegedly fired gunshots at Balbir Singh. He further states that as per own case of prosecution, petitioner was not present on the spot, rather, precise allegation against him is that he subsequently proclaimed on Facebook that he had got Balbir Singh killed on account of past rivalry, which may not be sufficient evidence to conclude guilt of the petitioner. He states that though it is yet to be established on record that message/proclamation, if any, on Facebook was uploaded by the petitioner, but even if same is presumed to be correct, it cannot

be used against the petitioner. He states that till date, guilt of the petitioner has not been proved in accordance with law, coupled with the fact that co-accused, Lalit and David, who had also not played any role, stand enlarged on bail, petitioner also deserves to be enlarged on bail.

6. To the contrary, Mr. Rajan Kahol, learned Additional Advocate General, while fairly admitting factum with regard to filing of the 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. Mr. Kahol, states that there is overwhelming evidence adduced on record suggestive of the fact that petitioner as well as the co-accused, who actually fired gunshots at Balbir Singh are close friends and gunshots were fired at Balbir Singh to take revenge for his having assaulted cousin of the present bail petitioner. He states that once petitioner himself has proclaimed on Facebook that he had instructed five persons to give beatings to Balbir Singh, coupled with the fact that his voice sample has matched with the voice recorded in message uploaded on Facebook, no illegality can be said to have been committed by the police, while registering the case against the petitioner.

7. Having heard learned counsel for the parties and perused material available on record, this Court finds that petitioner herein was not a member of the group, which actually fired gunshots at victim on the date of alleged incident, rather as per own case of prosecution, five persons, namely Shiv Pandit, Rajan, Rohit and two other unidentified individuals, fired gunshots at Balbir Singh. If the statement of the complainant recorded under Section 154 Cr.P.C. is perused in its entirety, it reveals that complainant had suspicion that co-accused Lalit and David had prior intimation and knowledge with regard to conspiracy allegedly hatched by five persons to kill the victim, but complainant nowhere mentioned the name of the petitioner, rather, his name came to be incorporated in FIR on the basis of alleged proclamation made by the petitioner on Facebook, proclaiming that he had instructed five persons to give beatings to Balbir Singh.

8. Though voice sample of the petitioner has matched with the voice of the person, who allegedly uploaded the message on Facebook, proclaiming that he had instructed five persons to give beatings to deceased, but that may not be sufficient to prove complicity of the petitioner, rather in that regard, cogent and convincing evidence is required to be adduced on record by the prosecution. Even if it is presumed that

message, as detailed hereinabove, was uploaded on Facebook by the petitioner, same cannot be used against him till the time, same is corroborated by other cogent and convincing evidence, which in the case at hand is lacking at this juncture.

9. No doubt, in past, eight criminal cases stand registered against the petitioner, but such fact may not dissuade this Court from considering his prayer for bail, especially when guilt, if any, of the petitioner in the afore cases is yet to be proved in accordance with law by prosecution.

10. No doubt, gunshots were fired at Balbir Singh by persons namely Shiv Pandit, Rajan and Rohit and two other unidentified individuals, coupled with the fact that Balbir Singh has already recovered from the injuries, there appears to be no justification to let the bail petitioner incarcerate in jail for indefinite period, especially when guilt, if any, is yet to be established on record.

11. Hon'ble Apex Court as well as this Court have held in catena of cases that one is deemed to be innocent till the time his/her guilt is not proved, in accordance with law. Since guilt, if any, of the bail petitioner is yet to be established on record by the prosecution by leading cogent and convincing evidence, this court sees no reason to curtail the freedom of the bail petitioner for an indefinite period during trial. Apprehension expressed by learned

Additional Advocate General, that in the event of being enlarged on bail, bail petitioner may flee from justice can be best met by putting the bail petitioner to stringent conditions.

12. Hon'ble Apex Court in Criminal Appeal No. 227/2018, ***Dataram Singh vs. State of Uttar Pradesh & Anr***., decided on 6.2.2018, has categorically held that a fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. Hon'ble Apex Court further held that while considering prayer for grant of bail, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Hon'ble Apex Court further held that if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimized, it would be a factor that a judge would need to consider in an appropriate case. The relevant paras of the aforesaid judgment are reproduced as under:

> ***2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a***

correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.

3. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.

4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to Section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting Section 436A in the Code of Criminal Procedure, 1973.

5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other

problems as noticed by this Court in In Re-Inhuman Conditions in 1382 Prisons

13. 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.

14. 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.

15. 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.

16. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, bail-petitioner has carved out a case for grant of bail, accordingly, the petition is allowed and the bail-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.***
> ***e. He shall surrender his passport, if any, before the investigating agency.***

17. 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.

18. 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.

19. A downloaded copy of this order shall be accepted by the learned trial Court, while accepting the bail bonds from the petitioner and in case, said court intends to ascertain the veracity of the downloaded copy of order presented to it, same may be ascertained from the official website of this Court.

(Sandeep Sharma)
Judge

October 28, 2026
(sunil)