IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Cr.MP(M) No.2080 of 2026
Date of Decision: 06.11.2026

Vinod Kumar ...Petitioner

Versus

State of H.P. & Anr. .....Respondent

Coram:

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

Whether approved for reporting?[1]

For the Petitioner : Mr. Vijay Chaudhary, Advocate.

For the Respondent : Mr. Rajpal Thakur, Additional Advocate General.

Chirag Bhanu Singh, Judge (Oral)

The petitioner has preferred an application seeking post arrest bail invoking jurisdiction of this Court under Section 483 of Bharatiya Nagarik Suyraksha Sanhita, 2023 (for short "BNSS") registered vide FIR No. 12 of 2026, on 09.07.2026 under Section 64(1)(f)(n) of Bharatiya Nyaya Sanhita (in short 'BNS') and Sections 6, 21(1) of the Protection of Children from Sexual Offences Act (in short 'POCSO'), and Sections 9 and 11 of Prohibition of Child Marriage Act, 2006, at Police Station Pangi, District Chamba, H.P.

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

2. The perusal of the status report filed by the prosecution is suggestive of the fact that on 08.07.2026, LC Naresh Kumari had recorded the statement of the prosecutrix under Section 173 of BNSS that she had passed her +2 examination from GSSS Purthi in the year 2025. In the years 2025 she had became friend with one Vinod Kumar, with whom she had eventually solemnized marriage after eloping with him on 28.09.2025. She had started residing with him in his house at village Shoon. I am pregnant and aged about 18 years. My date of birth is 14.08.2008. Since April, 2026, she had been staying with her husband Vinod Kumar in Kullu. On 05.07.2026 because of labour pain I had been brought to the hospital.

3. Based upon her aforesaid statement, the aforesaid FIR came to be registered.

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

5. Undisputedly, both the victim/prosecutrix and the accused are married. The statement of the so called victim is clear and candid in this behalf. They have also

been blessed with a child. As per the record, fortunately, the accused was major at the time of the delivery.

6. Seemingly, the FIR came to be registered mainly on the basis of a report submitted by the doctor. Even assuming the accused had married a minor it, at best entailed action against him only under the provisions of The Prohibition of Child Marriage Act, 2006. However, under what circumstances the POCSO Act came to be attracted is hard to fathom. The doctor had only reported that the prosecutrix, who was less than 17 years old had delivered a baby boy. The bare perusal of the report filed by the doctor does not remotely suggest that an offense under the POCSO Act had been reported by the doctor or the prosecutrix had disclosed anything about such offence having been committed by petitioner or someone.

7. Nonetheless, apparently keeping in view the provisions of Sections 19 and 21 of the POCSO Act, the doctor had reported the matter that the victim, who had come to deliver a child was below 18 years. He just informed the police. It apparently resulted in the registration of the present FIR.

8. No doubt Section 19 of the POCSO Act, inter alia, provides that an offense committed under this Act shall be informed to the Special Juvenile Police Unit or the local police, and any person, who fails to report the commission of an offense under Subsection (1) of Section 19 has been held liable for punishment, but that in any eventuality, would not mean that a person, who has come to deliver a child, if she happens to be a minor, would in itself constitute an offense at least under the POCSO Act.

9. It would be apposite to reproduce Section 19 of the Act, which reads thus;

> ***"19.Reporting of offences.—(1)Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) any person (including the child), who has apprehension that an offence under this Act is likely to be committed or has knowledge that such an offence has been committed, he shall provide such information to,—***
>
> ***(a)the Special Juvenile Police Unit; or***
>
> ***(b)the local police.***
>
> ***(2)Every report given under sub-section (1) shall be —***
>
> ***(a)ascribed an entry number and recorded in writing;***
>
> ***(b)be read over to the informant;***
>
> ***(c)shall be entered in a book to be kept by the Police Unit.***
>
> ***(3)Where the report under sub-section (1) is given by a child, the same shall be recorded under***

sub¬section (2) in a simple language so that the child understands contents being recorded.

(4)In case contents are being recorded in the language not understood by the child or wherever it is deemed necessary, a translator or an interpreter, having such qualifications, experience and on payment of such fees as may be prescribed, shall be provided to the child if he fails to understand the same.

(5)Where the Special Juvenile Police Unit or local police is satisfied that the child against whom an offence has been committed is in need of care and protection, then, it shall, after recording the reasons in writing, make immediate arrangement to give him such care and protection including admitting the child into shelter home or to the nearest hospital within twenty-four hours of the report, as may be prescribed.

(6)The Special Juvenile Police Unit or local police shall, without unnecessary delay but within a period of twenty-four hours, report the matter to the Child Welfare Committee and the Special Court or where no Special Court has been designated, to the Court of Session, including need of the child for care and protection and steps taken in this regard.

(7)No person shall incur any liability, whether civil or criminal, for giving the information in good faith for the purpose of sub-section (1).”

10. The bare reading of the Section would suggest that what has to be reported is the apprehension of an offence or an offence having been committed under the Act, or a person, who had knowledge that such an offence has been committed under the Act. Sub-section (3) of Section 19 clearly provides that where a report under Sub-section (1) is given by a child, the same shall be recorded under Sub-section (2) in a simple language, so that even the child understands the content of the same.

11. It is thus crystal clear that non-reporting would become an offense only if a sexual assault in any form if reported by the child and despite reporting an assault, if the doctor or any other person, who has knowledge of the same fails to inform the police, would result in the invocation of the provisions of Sections 19 and 21 of the Act. The legislature never intended it to mean that a minor, who has gone to deliver a child, should he charged under the provisions of the POCSO Act.

12. It would be a travesty of justice if a person who has gone to get his child delivered is arrested for an offence under POCSO, even if his wife is a minor. It could not have been the intention of the legislature, and nor it is. Section 19 of the POCSO itself suggests that the victim has to report a sexual offence and it is only if reported and the doctor or the person informed does not respond, the provisions of Section 19 come into play. Even in the case at hand, the alleged victim (the wife) of the accused had not reported any offence under the Act to the doctor. The doctor's thus reporting to the police that a minor had been admitted for delivering a child, could not have *per se* attracted the provisions of the POCSO Act. At best the accused husband could have been prosecuted under the provisions of

The Prohibition of Child Marriage Act, 2006. Section 9 of the said Act providing the penal consequences thereof.

13. The intent and the purpose behind Section 19 of the POCSO Act only is that the sexual offences against minors don't go unreported.

14. The distinction can be gauged from the provisions of Section 19 itself. The bare reading of sub-clause (1) to (3) clearly demonstrates that it is only when a sexual assault on a minor goes unreported, that Section 19 comes into play. It is not meant for a situation where a married minor has gone to deliver a child. At best, in the aforesaid circumstances only the provisions of, The Prohibition of Child Marriage Act, 2006, could have been invoked by the police. It is literally a case in which the FIR is liable to be quashed.

15. For all the reasons discussed hereinabove, 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/ Additional District Judge, 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."

16. 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.

17. 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.

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

(Chirag Bhanu Singh)
Judge

November 06, 2026
(subhash)

SHAMSH TABREZ
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