 2026:HHC:48515

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No. : 2106 of 2026
Reserved on : 02.11.2026
Decided on : 03.11.2026
Uploaded on : 03.11.2026

Vishal @ Vishu ...Applicant

Versus

State of Himachal Pradesh ...Respondent

Coram
The Hon'ble Mr. Justice Virender Singh, Judge.
Whether approved for reporting?[1]

For the applicant : Mr. Vikrant Chandel, Advocate.

For the respondent : Mr. Mohinder Zharaick, Additional Advocate General, for respondent No.1.

None for respondents No.2 and 3.

Virender Singh, Judge

Applicant-Vishal @ Vishu has filed the present application, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), for releasing him on bail, during the pendency of the trial, arising out of **FIR No.02 of 2026, dated 04.01.2024,** registered **under Sections 70(2) of the Bharatiya Nyaya**

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

Sanhita (hereinafter referred to as the BNS), Section 4 of the Protection of Children from Sexual Offences Act (hereinafter referred to as the POCSO Act') and Section 3(2) (va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the SC & ST Act'), with Women **Police Station, Kullu, District Kullu, H.P.**

2. According to the applicant, he is innocent person and has falsely been implicated, in this case, whereas, he has no concern with the crime in question.

3. The investigation, in the present case, is stated to be completed and all these facts have been pleaded to demonstrate that the custodial interrogation of the applicant is no longer required, by the Police.

4. According to the applicant, he is a young man of 20 years and, is in the judicial custody from the date of his arrest, i.e., 06.01.2026.

5. Highlighting the fact that the police could not collect any evidence to connect the applicant with the

crime, in question, it has been prayed that the applicant may kindly be released on bail.

6. The applicant has earlier tried his luck, by moving similar application before Court of learned Special Judge, Kullu, however, his application has been dismissed on 10.06.2026. Thereafter, the applicant has also filed similar application, before this Court, which was dismissed as withdrawn on 20.07.2026.

7. On the basis of the above facts, Shri Vikrant Chandel, learned counsel appearing, on behalf of the applicant, has given certain undertakings, for which, the applicant is ready to abide by, in case, ordered to be released on bail.

8. When put to notice, the police has filed the status report disclosing therein that on 04.01.2026, the complainant moved a complaint before the police disclosing therein that she is resident of the address, as mentioned, in the application, she is blessed with two daughters, the child victim is about 15 years of age.

8.1. On 03.01.2026, the friends of her daughter, had called the child victim. Thereafter, the child victim had gone to her school, but, she has not returned back. When, the complainant made a call to her daughter, then, one 'Y' picked-up the phone and stated that the child victim is not with her. Thereafter, she had handed over the phone of the child victim to the complainant.

8.2. The complainant waited for her daughter till 8:00 PM. When, she had not returned back, then, she, along with her husband. had gone to Bhuntar Police Station. On inquiry, it was found that the child victim, along with her friends, is in a hotel Dwada at Dobhi, upon which, she, along with her husband, had gone there and with the help of the police, the child victim and her friends including applicants Vishal and Rajesh, Pawan, Roop Singh, Suraj and Vijay were brought to Bhuntar Police Station.

8.3. In Police Station Bhuntar, the child victim and her friends disclosed that they had gone there to celebrate a party, thereafter, child victim was brought back to her home. The child victim was found to be frightened. On the next day, i.e., on 04.01.2026, the child victim disclosed

that she is having pain in her stomach and disclosed that yesterday, she had firstly gone to Bhuntar and thereafter, she, along with Suman, Aarushi, and Sanjana, had gone to a cottage at Shadabai, where applicant Vishal consumed the liquor and made her also to consume liquor. Thereafter, she started vomiting and feeling not good and found herself to be under the influence of liquor.

8.4. Thereafter, Suman and her boyfriend Vishal took her to a hotel at Dwara, where Suman, Sujal, and Vishal were already in the said room and other boys were in the other room. The child victim further disclosed that when, she was under the influence of liquor, Suman and Vishal had a quarrel, as, Vishal made to intimate with her. Thereafter, Suman left therefrom, Sujal and Vishal were in the room. According to her, Vishal inserted his finger in her vagina and kissed her also. She has further disclosed that she was raped by Vishal and Sujal.

8.5. On the basis of the above facts, a complaint was made to the police, upon which, the police registered the case, under Section 70(2) of BNS and Section 4 of POCSO Act.

8.6. Thereafter, the initial investigation was conducted by Sub-Inspector Usha and Inspector Oma Thakur.

8.7. The child victim was medically examined at Regional Hospital Kullu, her mother accompanied her. MLC was obtained and the doctor has given following opinion: 'In my opinion, the possibility of sexual intercourse cannot be ruled out. Final opinion will be given after forensic lab report and gynecological opinion'.

8.8. On 05.01.2026, the team of RFSL visited the spot and collected the physical evidence from there. The statement of the child victim and her mother was recorded, under Section 180 of BNSS. During investigation, she has again reiterated the version given to her mother.

8.9. The child victim was produced before the Court of learned Judicial Magistrate First Class Kullu, where, her statement, under Section 183 of BNSS, was recorded. Vishal was arrested on 06.01.2026. He was also medico-legally examined. The physical evidence, so collected, by the doctors, were sent to RFSL Mandi. He was, thereafter, produced before the Court of Learned CJM Lahaul and

Spiti at Kullu and was remanded to police custody for three days. During investigation, he has identified the place of occurrence.

8.10. On 07.01.2026, the accused and the friends of child victim identified the car, in which, they had gone to Dwara from Shadabai. During investigation, the statement of the child victim, her friends, Suman, Sanjana, and Aarushi were recorded. On 10.01.2026, the other accused namely Sujal and Suraj were also associated.

8.11. Since, the above two persons, who are, hereinafter referred to as CCLs (Child in Conflict with Law) were minor, as, they were inquired, in the presence of their parents. As per the record collected, the date of birth of CCL No.1 was found to be 14.02.2009 and the date of birth of CCL No. 2 is 01.01.2009. Both were produced before the Principal Magistrate Juvenile Justice Board Kullu. They were medico-legally examined.

8.12. On the basis of caste certificate, the child victim was found to be belonging from scheduled tribe community, as such, Section 3(2)(v) of SC&ST Act, was dded, in the present case and the investigation was

entrusted to Additional Superintendent of Police Kullu, Shri Sanjeev Chauhan. Since, the applicant is also belonging from scheduled tribe community, as such, the provisions of the SC&ST Act was deleted against him.

8.13. As per the status report, the child victim has been examined on 24.01.2026 and the case is now listed for 23.12.2026 and thereafter, from 05.01.2027 to 16.01.2027.

8.14. On the basis of the above facts, it has been apprehended that in case, the applicant is released on bail, he may coerce the witnesses, as well as, the child victim and threatened her to depose in his favor.

9. On the basis of the above facts, a prayer has been made to dismiss the application.

10. In this case, the child victim and the complainant were made parties, by impleading them, as respondents No. 2 and 3. Despite of the service of notices, they have not opted to put appearance before this Court and to contest the application.

11. No doubt, the applicant has been named, as accused, in a very heinous offence. However, at the time of deciding the application, a delicate balance is to be made between the larger interest of the society and the individual liberty.

12. The applicant is a young man of 20 years and he is in the custody from 06.01.2026. The conclusion of the trial against the applicant will take sufficient long time, as such, no useful purpose would be served by keeping the applicant in the judicial custody, that too, in the company of the hardened criminal, as, his custody with the hardened criminal would adversely affect upon his future.

13. Except the present case, no other case, is stated to be registered against the applicant. The role, as attributed to the applicant, is yet to be proved, during the trial.

14. As per the status report, no specific allegations have been leveled. Considering the manner, in which, the case has been now listed for PWs, that too, in the month of December, 2026 and January, 2027, conclusion of the trial against the applicant, in near future are not bright, as

such, no useful purpose would be served by keeping the applicant in the judicial custody, that too for the indefinite period.

15. So far as the apprehensions, which have been expressed by the police, in the status report are concerned, for those apprehensions, reasonable conditions can be imposed, in case, the applicant is ordered to be released on bail.

16. Considering all these facts, this Court is of the view that the bail application is liable to be allowed and is accordingly allowed.

17. Consequently, the applicant is ordered to be released on bail in case **FIR No.02 of 2026, dated 04.01.2024, registered under Sections 70(2) of the BNS, Section 4 of the POCSO Act, and Section 3(2) (va) of the SC & ST Act, with Women Police Station, Kullu, District Kullu, H.P.**, on his furnishing personal bond in the sum of Rs.50,000/-, with one surety, in the like amount, to the satisfaction of learned trial Court.

18. This order, however, shall be subject to the following conditions:-

> *a) Applicant shall 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) Applicant shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;*
>
> *c) Applicant shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or the Police Officer, and*
>
> *d) Applicant shall not leave the territory of India without the prior permission of the Court.*

19. Any of the observations, made herein above, shall not be taken, as an expression of opinion, on the merits of the case, as these observations are confined, only to the disposal of the present application.

20. It is made clear that the respondent-State is at liberty to move an appropriate application, in case, any of the bail conditions is found to be violated by the applicant.

21. The Registry is directed to forward a soft copy of the bail order to the Superintendent Jail, District Jail,

Solan, District Solan, through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

22. In case, the applicant is not released within a period of seven days from the date of grant of bail, the Superintendent Jail, District Jail, Solan, District Solan, is directed to inform this fact to the Secretary, DLSA, Solan. The Superintendent Jail, District Jail, Solan, District Solan, is further directed that if the applicants fail to furnish the bail bonds, as per the order passed by this Court within a period of one month from today, then, the said fact be submitted to this Court.

(Virender Singh)
Judge

November 03, 2026 *(ps)*

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