

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP (M) No. 449 of 2026
Reserved on : 17.04.2026
Decided on : 30.04.2026

Rishupal alias ManiPetitioner
Versus
State of Himachal PradeshRespondent

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge

Whether approved for reporting?¹

For the petitioner: Ms. Sheetal Vyas, Advocate.
For the respondent: Mr. Ankush Thakur, Deputy Advocate
General.

Sushil Kukreja, Judge

The instant bail application has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita (for short "BNSS) for grant of bail in case FIR No. 204/2022, dated 12.09.2022, registered at Police Station Haroli, District Una, H.P., under Sections 302, 382, 323, 212, 201, 120-B & 34 of the Indian Penal Code (for short "IPC"), read with Section 25 of the Arms Act and Sections 181, 192 and 196 of the Motor Vehicles Act (for short "MV Act").

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

2. The brief facts of the case, as per the status report filed by the respondent-State are that on 12.09.2022, at about 6.45 p.m., complainant Keshav Sharma was present in the shop of his uncle Ravinder Kumar alias Sethi at *Dulehar*, who told him that he had to go to *Laluwal* market. Thereafter, his uncle took his motorcycle and, in the meantime 4-5 persons on two motorcycles came there and started abusing his uncle. Though his uncle told them to stop, but they did not stop and went towards village *Bolewal* and Ravinder Kumar also went on his motorcycle behind them. On having suspicion that those persons might indulge in quarrel with his uncle, the complainant also went towards village *Bolewal* and when he reached near the gate of Government Primary School, *Dulehar*, he saw that his uncle and the said motorcycle riders were present there and the said motorcycle riders were touching the feet of his uncle and they appeared to be under the influence of intoxication. The uncle of complainant took out his mobile phone and said that he would call the police and get those persons medically examined. In the meantime, one of them, took out a pistol and fired on the chest of Ravinder Kumar and they also started giving beatings

to the complainant and ran away from the spot. The people from the market gathered on the spot and took the complainant and Ravinder Kumar to CHC, *Dulehar*, from where, Ravinder Kumar was referred to Regional Hospital, where the complainant came to know that his uncle had died. Thereafter, the police recorded the statement of complainant under Section 154 Cr.P.C., on the basis of which, FIR in question came to be registered. On 22.09.2022, Rishupal alias Mani (petitioner herein) was arrested from Hoshiarpur.

3. The bail application has been filed by the petitioner on the ground that he is innocent and has been falsely implicated in the present case. Learned counsel for the petitioner contended that the petitioner is in judicial custody since 22.09.2022 and the trial is not going to be completed in near future, as out of total 96 witnesses cited by the prosecution, till date, only 10 witnesses have been examined, therefore, the petitioner deserves to be released on bail, as no fruitful purpose would be served by keeping him behind the bars for an unlimited period. She further contended that there is inordinate delay in conclusion of trial, which infringes upon the

right of speedy trial of the petitioner, as such, he is entitled to be released on bail on the ground that his right of speedy trial has been violated.

4. Per contra, the learned Deputy Advocate General opposed the bail application on the ground that the petitioner does not deserve to be released on bail as he has been found involved in a serious offence of murder and in case he is released on bail, he may tamper with the prosecution evidence or may also flee from justice, as such, he does not deserve to be released on bail.

5. I have heard learned counsel for the petitioner as well as learned Deputy Advocate General for the State and also carefully gone through the material available on record. From the perusal of the record, I am of the firm opinion that the petitioner has not made out a case for grant of bail.

6. The law with respect to the grant or refusal of bail is well settled. It has been held by the Hon'ble Supreme Court in a catena of judgments that the grant of bail involves the balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a *prima facie* view of the

involvement of the accused are important. At the stage of assessing whether a case is fit for the grant of bail, the court is not required to enter into a detailed analysis of the evidence on record to establish beyond reasonable doubt the commission of the crime by the accused. However, the Court is required to examine whether there is a *prima facie* or reasonable ground to believe that the accused had committed the offence and on a balance of the considerations involved, the continued custody of the accused sub-serves the purpose of the criminal justice system. In ***Chaman Lal Vs. State of U.P. and Another***, (2004) 7 SCC 525, the Apex Court has laid down requisite factors for consideration of bail i.e., (i) nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, (ii) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant, and (iii) *prima facie* satisfaction of the court in support of the charge.

7. In ***Kalyan Chandra Sarkar Vs Rajesh Ranjan alias Pappu Yadav and Another***, (2004) 7 SCC 528, the Hon'ble Apex Court has held that the Court granting bail should exercise its discretion in a judicious manner and not as a matter of

course. The relevant portion of the aforesaid judgment reads as under:-

“11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge.

8. The Hon'ble Apex Court referred to the factors to be borne in mind while considering an application for bail in ***Prasanta Kumar Sarkar vs Ashis Chatterjee and another***, (2010) 14 SCC 496 and the said factors are as follows:

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"(i) whether there is any prima facie or reasonable ground to believe that the Accused had committed the offence;

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the Accused absconding or fleeing, if released on bail;
(v) character, behaviour, means, position and standing of the Accused;
(vi) likelihood of the offence being repeated;
(vii) reasonable apprehension of the witnesses being influenced; and
(viii) danger, of course, of justice being thwarted by grant of bail.
.....”

9. In **Central Bureau of Investigation Vs. V. Vijay Sai**

Reddy, (2013) 7 SCC 452 the Apex Court has reiterated the principle by observing as follows:

"34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words reasonable grounds for believing instead of the evidence which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

10. In **Virupakshappa Gouda Vs. The State of Karnataka**, AIR 2017 SC 1685 the Apex Court held that an order of bail cannot be granted in an arbitrary or fanciful manner.

The relevant portion of the aforesaid judgment reads as under:-

“18. From the aforesaid principles, it is quite clear that an order of bail cannot be granted in an arbitrary or fanciful manner. In this context, we may, with profit, reproduce a passage from Neeru Yadav Vs. State of Uttar Pradesh, wherein the Court setting aside an order granting bail observed:-

“The issue that is presented before us is whether this Court can annul the order passed by the High Court and curtail the liberty of the 2nd respondent. We are not oblivious of the fact that the liberty is a priceless treasure for a human being. It is founded on the bed rock of constitutional right and accentuated further on human rights principle. It is basically a natural right. In fact, some regard it as the grammar of life. No one would like to lose his liberty or barter it for all the wealth of the world. People from centuries have fought for liberty, for absence of liberty causes sense of emptiness. The sanctity of liberty is the fulcrum of any civilized society. It is a cardinal value on which the civilisation rests. It cannot be allowed to be paralysed and immobilized. Deprivation of liberty of a person has enormous impact on his mind as well as body. A democratic body polity which is wedded to rule of law, anxiously guards liberty. But, a pregnant and significant one, the liberty of an individual is not absolute. The society by its collective wisdom through process of law can withdraw the liberty that it has sanctioned to an individual when an individual becomes a danger to the collective and to the societal order. Accent on individual liberty cannot be pyramided to that extent which would bring chaos and anarchy to a society. A society expects responsibility and accountability from the member, and it desires that the

citizens should obey the law, respecting it as a cherished social norm. No individual can make an attempt to create a concavity in the stem of social stream. It is impermissible. Therefore, when an individual behaves in a disharmonious manner ushering in disorderly things which the society disapproves, the legal consequences are bound to follow. At that stage, the Court has a duty. It cannot abandon its sacrosanct obligation and pass an order at its own whim or caprice. It has to be guided by the established parameters of law.”

11. In **Anil Kumar Yadav Vs. State (NCT) of Delhi**, AIR 2017 SC 5398 the Apex Court by relying upon various judgments held that for ensuring the fair trial, witnesses must be in a position to freely depose without fear. The relevant portion of the aforesaid judgment reads as under:-

“29. In the present case, the trial is at a very crucial stage. The trial court is yet to record the testimony of material witnesses including the complainant as well as all the material witnesses. The trial has commenced and the trial is said to be posted for 04.12.2017. For ensuring the fair trial, witnesses must be in a position to freely depose without fear. In the facts and circumstances of the case, we are convinced that a fair trial can be ensured only if the appellants are not enlarged on bail.

30. We are conscious of the fact that the appellants are only under trials and their liberty is also a relevant consideration. But equally important is to consider the impact of their release on bail on the prosecution witnesses and also its impact on society. In order to ensure that during trial the material witnesses depose without fear and justice being done to the society, a balance has to be struck. Referring to Masroor v. State of Uttar Pradesh and another (2009) 14 SCC 286 and other cases, in State of Bihar v. Rajballav Prasad alias

Rajballav Prasad Yadav alias Rajballabh Yadav (2017) 2 SCC 178, this Court held as under:-

*"26. We are conscious of the fact that the respondent is only an undertrial and his liberty is also a relevant consideration. However, equally important consideration is the interest of the society and fair trial of the case. Thus, undoubtedly the courts have to adopt a liberal approach while considering bail applications of the accused persons. However, in a given case, if it is found that there is a possibility of interdicting fair trial by the accused if released on bail, this public interest of fair trial would outweigh the personal interest of the accused while undertaking the task of balancing the liberty of the accused on the one hand and interest of the society to have a fair trial on the other hand. When the witnesses are not able to depose correctly in the court of law, it results in low rate of conviction and many times even hardened criminals escape the conviction. It shakes public confidence in the criminal justice-delivery system. It is this need for larger public interest to ensure that criminal justice-delivery system works efficiently, smoothly and in a fair manner that has to be given prime importance in such situations. After all, if there is a threat to fair trial because of intimidation of witnesses, etc., that would happen because of wrongdoing of the accused himself, and the consequences thereof, he has to suffer....."
[underlying added]"*

12. In ***Mahipal vs. Rajesh Kumar @ Polia and another***, (2020) 2 SCC 118 the Hon'ble Apex Court held that the power to grant bail under Section 439 of Cr.P.C. is of a wide amplitude. Though the grant of bail involves the exercise of discretionary power of the Court, it has to be exercised in a

judicious manner and not as a matter of course. In the said case, the guiding factors for exercise of power to grant bail as held in **Ram Govind Upadhyay vs. Sudarshan Singh** (2002) 3 SCC 598, were referred, which are as follows:

“11.....

3. *Grant of bail though being a discretionary order but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case...The nature of the offence is one of the basic considerations for the grant of bail - more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.*

4. *Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the same are only illustrative and not exhaustive, neither there can be any. The considerations being:*

(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.

(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.

(c) While it is not expected to have the entire evidence establishing the guilt of the Accused beyond reasonable doubt but there ought always to be a prima facie satisfaction of the court in support of the charge.

(d) Frivolity in prosecution should always be considered and it is only the element of

genuineness that shall have to be (2002) 3 SCC 598 considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the Accused is entitled to an order of bail."

13. In view of the above stated authoritative pronouncement of law laid down by the Apex Court, coming to the facts of the case on hand. The perusal of the record *prima facie* reveals that on 12.09.2022 the petitioner alongwith accused Jasbir Singh, Abhishek alias Shaktimaan and ABC (name withheld, being Juvenile) came on their motorcycles at *Dulehar* with conspiracy to kill one Mohit. However, when they were in search of Mohit and going towards *Dulehar* market, they had confrontation with Ravinder Kumar and also had some exchange of words with him, as such, Ravinder Kumar went behind them towards *Dulehar* School ground. Ravinder Kumar asked them whether they had come to sell drugs and also threatened them that he would get them searched by police. In the meantime, accused Jasvir took out a pistol and fired on the chest of Ravinder Kumar. The accused persons also gave beatings to the complainant and ran away from the spot by taking mobile phone of Ravinder Kumar. Therefore, the evidence

collected during investigation, *prima facie*, indicates the involvement of the petitioner and other co-accused persons in a serious offence of murder.

14. Learned counsel for the petitioner contended that the petitioner is in custody since 22.09.2022 and the trial in the case is not likely to be concluded in near future, therefore, he deserves to be released on bail on the ground of delay in trial. However, mere fact that the petitioner is in custody for the last more than three years is no ground to grant him bail, as the allegations against the petitioner are serious and grave in nature. Although, Article 21 of the Constitution of India guarantees speedy trial and an under trial prisoner cannot be detained in jail/custody for an indefinite period, but, mere period of incarceration or the fact that the trial is not likely to be concluded in near future cannot entitle the petitioner to be enlarged on bail, as the petitioner is *prima facie* found involved in a serious offence of murder.

15. The Hon'ble Supreme Court in the case reported in ***Chenna Boyanna Krishna Yadav Vs. State of Maharashtra and another, (2007) 1 SCC 242*** has held that when the gravity

of offence alleged is severe, mere period of incarceration or the fact that the trial is not likely to be concluded in near future cannot entitle the petitioner to be enlarged on bail. The relevant portion of the aforesaid judgment reads as under:-

"16.....It is true that when the gravity of the offence alleged is severe, mere period of incarceration or the fact that the trial is not likely to be concluded in the near future either by itself or conjointly may not entitle the accused to be enlarged on bail. Nevertheless, both these factors may also be taken into consideration while deciding the question of grant of bail."

(Emphasis supplied)

16. In the case of ***State of Bihar and another Vs. Amit Kumar alias Bachcha Rai, (2017) 13 SCC 751*** the Hon'ble Supreme Court has reiterated that where there is seriousness of the offence, the mere fact that the accused is languishing in jail during trial should not be the concern of the courts. The relevant portion of the aforesaid judgment reads as under:-

"8. A bare reading of the order impugned discloses that the High Court has not given any reasoning while granting bail. In a mechanical way, the High Court granted bail more on the fact that the accused is already in custody for a long time. When the seriousness of the offence is such the mere fact that he was in jail for however long time should not be the concern of the courts. We are not able to appreciate such a casual approach while granting bail in a case which has the effect of undermining the trust of people in the integrity of the education system in the State of Bihar."

17. The Hon'ble Supreme Court in the case reported in **(2004) 7 SCC 528 (Kalyan Chandra Sarkar Vs. Rajesh Ranjan alias Pappu Yadav and another)** has held that three years incarceration would not itself entitle the accused-applicant to be released on bail nor the fact that the trial is not likelihood to be concluded in near future would be sufficient for enlarging the accused-applicant on bail considering the gravity of offence. Paragraph-14 of the said judgment, which is relevant, is extracted hereunder:-

"14. We have already noticed from the arguments of learned counsel for the appellant that the present accused had earlier made seven applications for grant of bail which were rejected by the High Court and some such rejections have been affirmed by this Court also. It is seen from the records that when the fifth application for grant of bail was allowed by the High Court, the same was challenged before this Court and this Court accepted the said challenge by allowing the appeal filed by the Union of India and another and cancelled the bail granted by the High Court as per the order of this Court made in Criminal Appeal No. 745 of 2001 dated 25-7-2001 [Rajesh Ranjan v. State of Bihar, (2000) 9 SCC 222] . While cancelling the said bail this Court specifically held that the fact that the present accused was in custody for more than one year (at that time) and the further fact that while rejecting an earlier application, the High Court had given liberty to renew the bail application in future, were not grounds envisaged under Section 437(1)(i) of the Code. This Court also in specific terms held that the condition laid down under Section 437(1)(i) is sine qua non for granting bail even under Section 439 of the Code. In the impugned order it is noticed that the High Court has given

the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."

18. Thus when the gravity of the offence alleged is severe, mere long incarceration in jail as under-trial is not sufficient ground to enlarge an accused on bail if the facts & circumstances of the case and interest of the society do not warrant for enlarging the accused-applicant on bail. In the instant case, the trial is in progress and the case is being listed for recording the statements of prosecution witnesses and there is every likelihood of the trial being concluded in near future, therefore, mere fact that the petitioner is in custody for the last more than three years is no ground to grant him bail.

19. Furthermore, the perusal of the status report reveals that on 02.12,2025, the petitioner alongwith accused

Jasvir Singh and Abhishek had threatened witness Keshav Sharma to do away with his life and in this respect, FIR No. 380/2025, dated 02.12.2025, under Sections 351(2) & 3(5) of BNS has also been registered against them. Thus, conduct of the petitioner while in custody is also not proper which shows that he has no respect for law and he appears to be of aggressive nature which fact also dis-entitles him to be released on bail.

20. Therefore, keeping in view the nature of the allegations leveled against the petitioner and also in view of the larger public interest, the present is not a fit case to exercise the discretion under Section 483 of BNSS in favour of the petitioner.

21. Hence, for the reasons mentioned above, the bail application filed by the petitioner is dismissed.

22. Be it stated that any expression of opinion given in this order does not mean an expression of opinion on the merits of the case and the trial Court will not be influenced by any observations made therein.

April 30, 2026
(raman)

(Sushil Kukreja)
Judge