

Reserved On: 24.02.2025 vs State Of Himachal Pradesh on 28 February, 2025

2025:HHC:3759 IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA Cr. MP(M) No. 193 of 2025 Reserved on: 24.02.2025 Date of Decision: 28.02.2025.

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Hon'ble Mr Justice Rakesh Kainthla, Judge. Whether approved for reporting?1 No. For the Petitioner : Mr. Harikrishan Singh Thakur, Advocate.

For the Respondent : Ms Niyati Thakur, Deputy Advocate General, with ASI Rajput Pradeep, IO, Police Station Indora.

Rakesh Kainthla, Judge The petitioner has filed the present petition for seeking regular bail. It has been asserted that the petitioner was arrested vide FIR No. 118 of 2024, dated 01.08.2024, registered at Police Station, Indora, District Kangra, H.P. for the commission of offences punishable under Sections 118(2) and 109(1) of the Bhartiya Nyaya Sanhita, 2023 (BNS). The petitioner is an Whether reporters of Local Papers may be allowed to see the judgment? Yes.

2025:HHC:3759 innocent and law-abiding citizen. No previous case was registered against him. The petitioner has sufficient property with him and there is no likelihood of his jumping bail. He would abide by all the terms and conditions, which the Court may impose. Hence, the petition.

2. The petition is opposed by filing a status report asserting that the victim-informant Suman Bala resides in her ancestral home with her husband and two brothers-in-law, Praveen Kumar and the petitioner Ajay. Petitioner used to quarrel with the informant regarding his share in the house. The members of Gram Panchayat pacified him but he continued to press for his share. The informant, her brothers-in-law Praveen Kumar and Shiv Dayal, and her son Deepak Kumar were in their home on 01.08.2024. The petitioner came to the house at about 6 PM in a state of intoxication. He picked up a quarrel with the informant and Shiv Dayal. Deepak Kumar tried to pacify the petitioner; however, the petitioner inflicted an injury on the victim's neck with a sharp-edged weapon concealed by him. The police registered the FIR and conducted the investigation. The police arrested the petitioner. The petitioner got recovered a darat hidden behind the bed. Police seized the darat. As per the 2025:HHC:3759 report of the Medical Officer, the victim had sustained grievous injury to the neck leading to severe bleeding, for which treatment and surgery were done. The injury would have led to the victim's death but for the timely treatment in the hospital. The case property was sent to SFSL and as per the report of analysis, blood was detected on darat, which yielded degraded

DNA that could not be analysed. The chargesheet was filed before the Court on 28.10.2024. The matter is listed before learned Additional Sessions Judge, Nurpur for consideration of charge on 01.03.2025. Hence, the status report.

3. I have heard Mr. Hari Krishan Singh Thakur, learned counsel for the petitioner and Ms. Niyati Thakur, learned Deputy Advocate General, for the respondent-State.

4. Mr. Hari Krishan Singh Thakur, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The report of the Medical Officer does not show any attempt to commit murder. The incident occurred in the spur of the moment, and there was no premeditation. The petitioner would abide by all the terms and conditions, which 2025:HHC:3759 the Court may impose. Hence, he prayed that the present petition be allowed and the petitioner be released on bail.

5. Ms Niyati Thakur, learned Deputy Advocate General for the respondent-State, submitted that the petitioner brought a Darat with him and inflicted an injury on the victim's neck. The victim was saved by timely medical intervention. The petitioner is related to the victim and is likely to intimidate her if released on bail. Therefore, she prayed that the present petition be dismissed.

6. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

7. The parameters for granting bail were considered by the Hon'ble Supreme Court in Ramratan v. State of M.P., 2024 SCC OnLine SC 3068, wherein it was observed as under: -

"12. The fundamental purpose of bail is to ensure the accused's presence during the investigation and trial. Any conditions imposed must be reasonable and directly related to this objective. This Court in Parvez Noordin Lokhandwalla v. State of Maharashtra (2020) 10 SCC 77 observed that though the competent court is empowered to exercise its discretion to impose "any condition" for the grant of bail under Sections 437(3) and 439(1)(a) CrPC, the discretion of the court has to be guided by the 2025:HHC:3759 need to facilitate the administration of justice, secure the presence of the accused and ensure that the liberty of the accused is not misused to impede the investigation, overawe the witnesses or obstruct the course of justice. The relevant observations are extracted herein below:

"14. The language of Section 437(3) CrPC, which uses the expression "any condition ... otherwise in the interest of justice" has been construed in several decisions of this Court. Though the competent court is empowered to exercise its discretion to impose "any condition" for the grant of bail under Sections 437(3) and 439(1)(a) CrPC, the discretion of the court has to be guided by the need to facilitate the administration of justice, secure the presence of the accused and ensure that the liberty of the accused is not misused to impede the investigation, overawe the witnesses or obstruct the course of justice. Several decisions of this Court have dwelt on the nature of the

conditions which can legitimately be imposed both in the context of bail and anticipatory bail." (Emphasis supplied)

13. In *Sumit Mehta v. State (NCT of Delhi)* (2013) 15 SCC 570, this Court discussed the scope of the discretion of the Court to impose "any condition" on the grant of bail and observed in the following terms:--

"15. The words "any condition" used in the provision should not be regarded as conferring absolute power on a court of law to impose any condition that it chooses to impose. Any condition has to be interpreted as a reasonable condition acceptable in the facts permissible in the circumstance and effective in the pragmatic sense and should not defeat the order of grant of bail. We are of the view that the present facts and circumstances of the case do not warrant such extreme condition to be imposed." (Emphasis supplied)

14. This Court, in *Dilip Singh v. State of Madhya Pradesh* (2021) 2 SCC 779, laid down the factors to be taken into 2025:HHC:3759 consideration while deciding the bail application and observed:

"4. It is well settled by a plethora of decisions of this Court that criminal proceedings are not for the realisation of disputed dues. It is open to a court to grant or refuse the prayer for anticipatory bail, depending on the facts and circumstances of the particular case. The factors to be taken into consideration while considering an application for bail are the nature of the accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; the reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; character, behaviour and standing of the accused; and the circumstances which are peculiar or the accused and larger interest of the public or the State and similar other considerations. A criminal court, exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as a recovery agent to realise the dues of the complainant, and that too, without any trial."

(Emphasis supplied).

8. The present petition has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

9. Section 109(2) of *Bhartiya Nayaya Sanhita*, 2023 reads that if any act is done with such intention or knowledge and in such circumstance that if by that act death is caused and the person is guilty of murder, he is liable to be imprisoned. In the present case, the petitioner had strained relations with the 2025:HHC:3759 victim as per the status report. He had brought the weapon of offence with him and inflicted an injury on the victim's neck. The fact that the weapon of offence was brought and not

picked up from the spot prima facie shows the petitioner's intention to cause hurt to the victim. Thus, the submission of learned counsel for the petitioner cannot be accepted that the incident had taken place at the spur of the moment without any premeditation. The status report also shows that injury was caused to the neck, a vital part of the body and had the death been caused, the bringing of the sharp-edged weapon, previous enmity between the parties, and the injury on the vital part of the body would have prima facie constituted a murder. Hence, prima facie an offence punishable under Section 109 of BNS is made out against the petitioner.

10. The status report shows that the petitioner and the victim had a dispute over the house. The petitioner and the victim are residing in the same house, hence the submission made by Ms. Niyati Thakur, learned Deputy Advocate General for the respondent-State is to be accepted as correct that releasing the petitioner on bail, at this stage, will endanger the safety of the victim.

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11. The matter is listed for consideration on charge and the statements of the witnesses have not been recorded as yet. Hence, the fair trial demands that the petitioner should not be released on bail at this stage.

12. In view of the above, the petitioner cannot be held entitled to regular bail at this stage, hence, the present petition fails and the same is dismissed.

13. The observation made herein before shall remain confined to the disposal of the instant petition and will have no bearing, whatsoever, on the merits of the case.

(Rakesh Kainthla) Judge 28th February, 2025 (Chander)