

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**CrMP (M) No. : 126 of 2025****Decided on : 25.02.2025**

...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. Ashok Kumar Tyagi,
Advocate.

For the respondent : Mr. H.S. Rawat, Mr. Mohinder
Zharaick and Mr. Tejasvi
Sharma, Additional Advocates
General, with Mr. Rohit
Sharma, Deputy Advocate
General, assisted by ASI Bharat
Chandel, I/O, Police Station
Janjehali, Tehsil Thunag,
District Mandi, H.P.

Virender Singh, Judge. (Oral)

Applicant- has filed the
present bail application, under Section 482 of the

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

Bharatiya Nagarik Suraksha Sanhita (hereinafter referred to as 'BNSS'), on the ground that he is apprehending his arrest, in case FIR No. 3 of 2025, dated 15th January, 2025, registered under Sections 64(2)m, 69, 352 and 324 of the Bharatiya Nyaya Sanhita (hereinafter referred to as 'BNS'), with Police Station Janjehali, Tehsil Thunag, District Mandi, H.P.

2. By way of the present applicant, the applicant has sought the indulgence of this Court, to direct the Investigating Officer/police of Police Station Janjehali, to release him on bail, in the event of his arrest, in the above-noted case.

3. The relief, as claimed in the application, has been sought on the ground that the police is pressing hard by calling him to the Police Station in connection with the complaint, made by the complainant, in this case.

4. According to the applicant, the said case has falsely been registered against him and he has nothing to do with the allegations, as levelled against him.

5. As per the applicant, he is being blackmailed by the complainant, in this case.

6. The relief has also been sought on the ground that he is a respectable person and having deep roots in the society.

7. On the basis of the above facts, Mr. Ashok Kumar Tyagi, learned counsel appearing for the applicant, has given certain undertakings, for which, the applicant is ready to abide by, in case, any direction is issued to the police/Investigating Officer, under Section 482 of the BNSS.

8. On the basis of the above facts, the applicant has prayed that the bail application may kindly be allowed.

9. On 16th January, 2025, after issuing notice to the State, interim protection was granted to the applicant and the matter was adjourned for today, for filing the status report.

10. Today, the police has filed the status report, disclosing therein, that on 15th January, 2025, the prosecutrix produced a complaint before the police,

mentioning therein, that she has been raped by the applicant.

10.1. According to the complainant, in the month of January, 2023, the applicant came to her house during the night hours. At that time, he was having some soft drink with him. The husband of the prosecutrix was not present there. Thereafter, the applicant offered her to take the said soft drink, in which, according to the complainant, he had mixed some intoxicated substance, due to which, the prosecutrix came under the influence of intoxication and the applicant had raped her. The applicant is also stated to have recorded her obscene video.

10.2. It has been mentioned in the said complaint, that thereafter, the applicant started threatening the complainant to make the said video viral. She has alleged that on the basis of the said video, the applicant used to rape her.

10.3. According to the complainant, the applicant had promised to marry and maintain her, but, now neither he is marrying her, nor, paying any maintenance to her.

10.4. It has further been alleged in the complaint, that on 10th January, 2025, the applicant again came to her residence and a scuffle took place between them and the applicant allegedly destroyed her phone.

10.5. On the basis of the said facts, the complainant had prayed that action be taken against the applicant.

10.6. Upon this, the police registered the case under Section 64 (2) m, 69, 352 and 324 (4) of the BNS, against the applicant and the criminal machinery swung into motion.

10.7. As per the status report, the complainant had mentioned, in her complaint, that she was raped by the applicant lastly in March, 2024, as such, she does not want to get herself medico-legally examined. Later on, the police added Section 351 (2) of the BNS and the prosecutrix was taken to Civil Hospital, Janjehali, for her medico-legal examination, where, she has refused to undergo medico-legal examination.

10.8. It has been mentioned in the status report that on 16th January, 2025, the statement of the prosecutrix was got recorded, under Section 183 of the BNSS, by

producing her before the Court of learned JMFC Thunag. The spot was visited and the spot map was prepared.

10.9. In pursuance of the directions of this Court, on 17th January, 2025, the applicant has joined the investigation and he was released on interim bail, by the police. The applicant was also medico-legally examined. The applicant is also stated to have produced a mobile phone, which was taken into possession.

10.10. On 24th January, 2025, the prosecutrix-complainant has produced the pen drive, allegedly containing the audio recording and messages, which was also taken into possession by the police.

10.11. Lastly, it has been mentioned in the status report that the investigation, in the present case, is complete and challan has been prepared. As per the status report, only the report from SFSL Junga is awaited.

11. On the basis of the above facts, it has been prayed by the learned Additional Advocate General that the bail application may kindly be dismissed.

12. Heard.

13. The applicant, in pursuance of the directions of this Court, has joined the investigation. The investigation, in the present case, as per the stand taken by the police, in the status report, is complete. Meaning thereby, the custodial interrogation of the applicant is no longer required by the police.

14. The complainant-prosecutrix, who, admittedly, is a married lady, has levelled allegations against the applicant regarding the fact that she has been raped by him and now, neither he is solemnizing marriage with her, nor, paying any maintenance to her. All these allegations will be considered by the learned trial Court, during the trial.

15. The role of the accused (applicant), in the commission of the alleged crime, will be proved during the course of trial. The accused (applicant) is to be presumed innocent, till the conclusion of the trial and the bail application cannot be rejected as a matter of punishment, as, pre-trial punishment is prohibited under the law.

16. Moreover, except the present case, no other case is reported to have been registered against the

applicant. As such, the presumption of innocence is still available to the applicant.

17. It has rightly been highlighted by the learned counsel appearing for the applicant that in the complaint, as well as, as per the stand taken by the police, the prosecutrix has refused to undergo medico-legal examination.

18. Considering all these facts, this Court is of the view that the interim protection, granted to the applicant, vide order, dated 16th January, 2025, is liable to be made confirmed.

19. Consequently, interim order, order, dated 16th January, 2025, is made absolute, on the conditions, as mentioned in the said order.

20. Any of 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, to the disposal of the present bail application.

21. The applicant is directed to move regular bail application, when charge sheet will be filed in the Competent Court of Law.

22. 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.

(Virender Singh)
Judge

February 25, 2025
(rajni)