

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.767 of 2026

Date of Decision: 15.5.2026

Vikram Singh

.....Petitioner

Versus

State of Himachal Pradesh

.....Respondent

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? Yes.

For the Petitioner: Mr. Subodh Bhatia and Mr. Pranav Sharma,
Advocates.

For the Respondents: Mr. Rajan Kahol, Additional Advocate General and
Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy
Advocates General.

Sandeep Sharma, J. (Oral)

Bail petitioner namely Vikram Singh, who is behind bars since 20.3.2026, has approached this court in the instant proceedings filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of regular bail, in case FIR No.0018 of 2026 dated 20.3.2026, registered at Police Station Renuka Ji, District Sirmaur, Himachal Pradesh, under Section 64 of the Bharatiya Nyaya Sanhita, 2023 (in short "BNS") and Section 6 of the Protection of Children from Sexual Offences Act (in short "Act").

2. In terms of order dated 6.5.2026, respondent-State has filed the status report and ASI Komal Chand, has come present with record. Complainant victim-prosecutrix has also come present pursuant to intimation given to her by the Investigating Officer in terms of afore order.

3. Close scrutiny of record/status report reveals that on 19.3.2026, Medical Officer, Civil Hospital Dadahu, informed the police that one girl, who claims herself to be 18 years old, has been brought for delivery. Police after having received afore information reached the hospital and found that date of birth of the girl, who was brought for delivery, was 24.2.2008, meaning thereby, at the relevant time, she was a minor. Police recorded the statement of the victim-prosecutrix, who alleged that she is studying in Class-10 and her date of birth is 24.2.2008. She disclosed to the police that in the month of February 2026, she has turned eighteen. She alleged that petitioner herein had developed physical relations with her on 4-5 occasions and few days back, she felt pain in her abdomen and as such, she was brought to the hospital for check up, where she came to know that she is pregnant. In the afore background, FIR in question came to be lodged against the petitioner. Petitioner was arrested on 20.3.2026 and since then, he is behind the bars.

4. Since challan stands filed in the competent court of law and nothing remains to be recovered from him, bail petitioner has approached this Court in the instant proceedings for grant of regular bail.

5. Mr. Subodh Bhatia and Mr. Pranav Sharma, learned counsel appearing for the petitioner, submitted that petitioner has been falsely implicated because nothing happened against the wishes of victim-prosecutrix, rather she of her own volition and without there being any external pressure joined the company of the petitioner with whom she wants to solemnize marriage. Learned counsel for the petitioner further stated that though at the time of the alleged incident, age of victim-prosecutrix was 17 ½ years, but after delivery of child, she along with her minor baby is residing in the house of the bail petitioner. He stated that victim-prosecutrix, who has come present in the Court, does not wish to prosecute the case further, rather she wants to solemnize marriage immediately after grant of bail to the petitioner because now she has attained majority.

6. To the contrary, Mr. Rajan Kahol, while fairly acknowledging factum with regard to filing of the challan in the competent court of law, stated that though nothing remains to be recovered from the bail petitioner, but keeping in view the gravity of offence alleged to have been committed by

him, he does not deserve any leniency. He submitted that though there is overwhelming evidence adduced on record by the prosecution suggestive of the fact that bail petitioner taking undue advantage of innocence and minority of the victim-prosecutrix sexually assaulted her against her wishes, as a result of which, she became pregnant, but even if it is presumed that nothing happened against her wishes, such fact may not be of much relevance because admittedly at the time of alleged incident, victim-prosecutrix was 17 ½ years' old. He stated that since statement of victim-prosecutrix is yet to be recorded in the competent court of law, it would not be in the interest of justice to enlarge the bail petitioner on bail, who in that event, may cause harm to the victim-prosecutrix.

7. Victim-prosecutrix, who has come present along with her father and mother of the bail petitioner, stated on oath before this Court that she of her own volition and without any external pressure had joined the company of bail petitioner. She stated that FIR is result of misunderstanding because same was not lodged by her or her family members, rather matter came to be reported to police by Medical Officer, Civil Hospital Dadahu, where she along with bail petitioner and other family members had come for delivery. She stated that since she and bail petitioner want to solemnize marriage with each other and one child has

also born from the loins of the bail petitioner, she does not wish to prosecute the case further and shall have no objection in case bail petitioner is ordered to be enlarged on bail

8. Having heard learned counsel for the parties and perused the material available on record, this Court finds that FIR sought to be quashed never came to be lodged by victim-prosecutrix or her family members, rather same was lodged at the instance by Medical Officer of the Civil Hospital Dadahu. Though in her statement recorded under Section 173 CrPC, victim-prosecutrix stated that bail petitioner had developed physical relations 4-5 times, as a result of which, she became pregnant, but having taken note of her statement made in the court today, this court finds that bail petitioner and victim-prosecutrix had prior acquaintance and they wanted to solemnize marriage. After registration of case and delivery of child, victim-prosecutrix is residing with mother of the bail petitioner, who is also present in the Court.

9. True, it is that consent of the victim-prosecutrix, who at the relevant time was minor, is immaterial, but having taken note of the fact that victim-prosecutrix at the time of the alleged incident was 17 ½ years, coupled with her statement made in the court today, this court is not persuaded to agree with Mr. Rajan Kahol, learned Additional Advocate

General that bail petitioner taking undue advantage of innocence and minority of the victim-prosecutrix sexually assaulted her against her wishes, rather there are strong reasons to presume and believe that both bail petitioner and victim-prosecutrix love each other and they want to solemnize marriage, but before same could materialize, victim-prosecutrix became pregnant and matter was reported to the police.

10. Hon'ble Apex Court in **K. Kirubakaran v. State of T.N., 2025 SCC OnLine SC 2307** has categorically held that where the child was born as a result of love and not lust and the victim expressed her desire to live a peaceful and stable family life, the incarceration of the husband would disrupt the family unit and cause irreparable hardship to the victim, child and the social fabric. Relevant para of the afore judgment reads as under:

"9. Per the law made by the legislature, the appellant, having been found guilty of a heinous offence, the proceedings in the present case on the basis of a compromise between the appellant and his wife cannot be quashed. But ignoring the cry of the appellant's wife for compassion and empathy will not, in our opinion, serve the ends of justice. Even the most serious offenders of the law do receive justice moderated by compassion from the courts, albeit in appropriate cases. Given the peculiar facts and circumstances here, a balanced approach combining practicality and empathy is necessary. The appellant and the victim are not only legally married, but they are also in their family way. While considering the offence committed by the appellant punishable under the POCSO Act, we have discerned that the crime was not the result of lust but love. The victim of crime herself has expressed her desire to live a peaceful and stable family life with the appellant, upon

whom she is dependent, without the appellant carrying the indelible mark on his forehead of being an offender. Continuation of the criminal proceedings and the appellant's incarceration would only disrupt this familial unit and cause irreparable harm to the victim, the infant child, and the fabric of society itself.

10. We are, thus, persuaded to hold that this is a case where the law must yield to the cause of justice.”

11. In the case at hand, victim-prosecutrix, who has now become major and at present is residing with mother of the bail petitioner, does not want to prosecute the case further, rather she after grant of bail to the petitioner, wants to get married with him and take care of their two months old baby.

12. No doubt, petitioner is accused of commission of heinous crime punishable under Section 64 of the BNS and Section 6 of the POCSO Act, but having regard to the subsequent development, wherein victim-prosecutrix has given birth to a child coupled with the fact that matter came to be reported to the police by Medical Officer, where victim-prosecutrix was brought for delivery, this Court sees no reason to let the bail petitioner incarcerate in jail for indefinite period during trial, because in that event, ultimate sufferer would be victim-prosecutrix, who would otherwise be left alone to raise her minor child.

13. Hon'ble Apex Court as well as this Court in catena of cases have repeatedly held that one is deemed to be innocent till the time guilt, if

any, of his/her is not proved in accordance with law, as such, this Court sees no reason to curtail the freedom of the bail petitioner indefinitely during trial.

14. Needless to say, object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. Otherwise also, normal rule is of bail and not jail. Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

15. The Hon'ble Apex Court in ***Sanjay Chandra versus Central Bureau of Investigation*** (2012)1 Supreme Court Cases 49; held as under:-

“ The object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The Courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. Detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In India , it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any

circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the propose of giving him a taste of imprisonment as a lesson.”

16. In **Manoranjana Sinh Alias Gupta** versus **CBI** 2017 (5) SCC 218, The Hon’ble Apex Court has held as under:-

“ This Court in Sanjay Chandra v. CBI, also involving an economic offence of formidable magnitude, while dealing with the issue of grant of bail, had observed that deprivation of liberty must be considered a punishment unless it is required to ensure that an accused person would stand his trial when called upon and that the courts owe more than verbal respect to the principle that punishment begins after conviction and that every man is deemed to be innocent until duly tried and found guilty. It was underlined that the object of bail is neither punitive or preventive. This Court sounded a caveat that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of a conduct whether an accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him to taste of imprisonment as a lesson. It was enunciated that since the jurisdiction to grant bail to an accused pending trial or in appeal against conviction is discretionary in nature, it has to be exercised with care ad caution by balancing the valuable right of liberty of an individual and the interest of the society in general. It was elucidated that the seriousness of the charge, is no doubt one of the relevant considerations while examining the application of bail but it was not only the test or the factor and the grant or denial of such privilege, is regulated to a large extent by the facts and circumstances of each particular case. That detention in custody of under trial prisoners for an indefinite period would amount to violation of Article 21 of the Constitution was highlighted.”

17. Hon’ble Apex Court in Criminal Appeal No. 227/2018, **Dataram Singh vs. State of Uttar Pradesh & Anr.**, decided on 6.2.2018, has categorically held that a fundamental postulate of criminal

jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. Hon'ble Apex Court further held that while considering prayer for grant of bail, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Hon'ble Apex Court further held that if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimized, it would be a factor that a judge would need to consider in an appropriate case.

18. The Hon'ble Apex Court in ***Prasanta Kumar Sarkar v. Ashis Chatterjee and Another*** (2010) 14 SCC 496, has laid down the following principles to be kept in mind, while deciding petition for bail:

- (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.*

19. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, petitioner has carved out a case for grant of bail, accordingly, the petition is allowed and the petitioner is ordered to be

enlarged on bail in aforesaid FIR, subject to his furnishing personal bond in the sum of Rs.50,000/- with one local surety in the like amount to the satisfaction of concerned Chief Judicial Magistrate/trial Court, with following conditions:

- (a) He shall make himself available for the purpose of interrogation, if so required and 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) He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;
- (c) He shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or the Police Officer; and
- (d) He shall not leave the territory of India without the prior permission of the Court.

20. It is clarified that if the petitioner misuses the liberty or violates any of the conditions imposed upon him, the investigating agency shall be free to move this Court for cancellation of the bail.

21. Any observations made hereinabove shall not be construed to be a reflection on the merits of the case and shall remain confined to the disposal of this application alone. The petition stands accordingly disposed of.

22. The bail petitioner is permitted to produce copy of the order downloaded from the High Court Website and the trial court shall not insist for

certified copy of the order, however, it may verify the order from the High Court website or otherwise.

May 15, 2026

(manjit)

**(Sandeep Sharma),
Judge**