



**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. MP(M) No. 1025 of 2026**

**Reserved on : 30.6.2026**

**Date of Decision: 01.7.2026.**

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Abhishek @ Jalandhria

.... Petitioner

Versus

State of HP

.... Respondent

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*Coram*

*Hon'ble Mr Justice Rakesh Kainthla, Judge.*

*Whether approved for reporting?<sup>1</sup> No.*

For the Petitioner : Ms. Sakshi Bhardwaj, Advocate.

For the Respondent/State : Mr. Lokender Kutlehria,  
Additional Advocate General.

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***Rakesh Kainthla, Judge***

The petitioner has filed the present petition seeking regular bail in FIR No. 06 of 2018, dated 7.1.2018, registered at Police Station Palampur, District Kangra, HP, for the commission of offences punishable under Sections 365, 366 and 368 read with Section 34 of the Indian Penal Code (IPC).

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<sup>1</sup> Whether reporters of Local Papers may be allowed to see the judgment? Yes.

2. It has been asserted that the petitioner is a permanent resident of District Jalandhar. He has voluntarily surrendered and has been in judicial custody since 01.11.2025. The petitioner's wife has given birth to a female child on 11.01.2026. The petitioner is the sole earner of the family, and his family members are suffering hardship in his absence. The petitioner has deep roots in the society and is residing in his father-in-law's residence in Tehsil Palampur, District Kangra, H.P. The petitioner, the victim and her family members have entered into a compromise and settled all the disputes amicably. The petitioner has filed a Petition No. 516 of 2026 for quashing of the FIR, which is pending disposal. FIR No. 189 of 2015, FIR No. 56 of 2017, FIR No. 18 of 2016 and FIR No. 224 of 2016 are pending against the petitioner. The petitioner has been granted bail in these FIRs. The petitioner would abide by the terms and conditions that the Court may impose. Hence, the present petition.

3. The petition is opposed by filing a status report asserting that the informant had gone to the hospital on 06.01.2018. The petitioner and other persons entered the informant's house in her absence. The informant scolded her daughter, who was found missing after the incident. The matter was reported to the police, and the police registered an FIR. Gagan Deep and the victim were found

on 07.01.2018. The police arrested the petitioner and the co-accused. The informant stated that Abhishek, Gagan Deep and Anshul had taken her forcibly on a scooter. The victim refused to undergo the medical examination. The police completed the investigation and filed the charge sheet before the court on 07.03.2018. The petitioner had absconded and was arrested subsequently. The statements of 03 witnesses have been recorded, and the statements of 12 witnesses are yet to be recorded. The matter is listed on 10.07.2026 for recording the statements of prosecution witnesses. The petitioner was declared proclaimed offender by learned Trial Court on 17.8.2025 and he surrendered before the learned Trial Court on 1.11.2025. FIR No. 189 of 2015, FIR No. 18 of 2016, FIR No. 224 of 2016 and FIR No. 49 of 2016 have been registered against the petitioner. Hence, the status report.

4. I have heard Ms. Sakshi Bhardwaj, learned counsel, for the petitioner and Mr. Lokender Kutlehria, learned Additional Advocate General, for the respondent/State.

5. Ms. Sakshi Bhardwaj, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The petitioner has surrendered. The matter has been

reconciled between the informant and the petitioner, and the informant does not want to proceed further with the matter after they compromised. The petitioner would abide by the terms and conditions that the Court may impose. Hence, she prayed that the present petition be allowed and the petitioner be released on bail. She has also filed the written submissions, which have been perused by me.

6. Mr. Lokender Kutlehria, learned Additional Advocate General for the respondents, submitted that the petitioner had absconded after the registration of the FIR and there are chances that the petitioner would abscond again in case of his release on bail. The offence alleged against the petitioner is heinous. Hence, he prayed that the present petition be dismissed.

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

8. The parameters for granting bail were considered by the Hon'ble Supreme Court in *Pinki v. State of U.P.*, (2025) 7 SCC 314: 2025 SCC OnLine SC 781, wherein it was observed at page 380:

**(i) Broad principles for the grant of bail**

56. In *Gudikanti Narasimhulu v. High Court of A.P.*, (1978) 1 SCC 240: 1978 SCC (Cri) 115, Krishna Iyer, J., while

elaborating on the content of Article 21 of the Constitution of India in the context of personal liberty of a person under trial, has laid down the key factors that should be considered while granting bail, which are extracted as under: (SCC p. 244, paras 7-9)

“7. It is thus obvious that the nature of the charge is the vital factor, and the nature of the evidence is also pertinent. The punishment to which the party may be liable, if convicted or a conviction is confirmed, also bears upon the issue.

8. *Another relevant factor is whether the course of justice would be thwarted by him who seeks the benignant jurisdiction of the Court to be freed for the time being. [Patrick Devlin, “The Criminal Prosecution in England” (Oxford University Press, London 1960) p. 75 — Modern Law Review, Vol. 81, Jan. 1968, p. 54.]*

9. *Thus, the legal principles and practice validate the Court considering the likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice. It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the members of society. Bail discretion, on the basis of evidence about the criminal record of a defendant, is therefore not an exercise in irrelevance.” (emphasis supplied)*

57. In *Prahlad Singh Bhati v. State (NCT of Delhi)*, (2001) 4 SCC 280: 2001 SCC (Cri) 674, this Court highlighted various aspects that the courts should keep in mind while dealing with an application seeking bail. The same may be extracted as follows: (SCC pp. 284-85, para 8)

“8. *The jurisdiction to grant bail has to be exercised on the basis of well-settled principles, having regard to the*

circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing 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 or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the 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 it (sic 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.” (emphasis supplied)

58. This Court in *Ram Govind Upadhyay v. Sudarshan Singh*, (2002) 3 SCC 598: 2002 SCC (Cri) 688, speaking through Banerjee, J., emphasised that a court exercising discretion in matters of bail has to undertake the same judiciously. In highlighting that bail should not be granted as a matter of course, bereft of cogent reasoning, this Court observed as follows: (SCC p. 602, para 3)

“3. Grant of bail, though being a discretionary order, but, however, calls for the exercise of such a discretion in a judicious manner and not as a matter of course. An 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 do always vary from case to case. While the placement of the accused in society, though it may be considered by itself, cannot be a guiding factor in the matter of grant of bail, the same should always be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — the 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.” (emphasis supplied)*

59. In *Kalyan Chandra Sarkar v. Rajesh Ranjan*, (2004) 7 SCC 528: 2004 SCC (Cri) 1977, this Court held that although it is established that a court considering a bail application cannot undertake a detailed examination of evidence and an elaborate discussion on the merits of the case, yet the court is required to indicate the prima facie reasons justifying the grant of bail.

60. In *Prasanta Kumar Sarkar v. Ashis Chatterjee*, (2010) 14 SCC 496: (2011) 3 SCC (Cri) 765, this Court observed that where a High Court has granted bail mechanically, the said order would suffer from the vice of non-application of mind, rendering it illegal. This Court held as under with regard to the circumstances under which an order granting bail may be set aside. In doing so, the factors which ought to have guided the Court's decision to grant bail have also been detailed as under: (SCC p. 499, para 9)

“9. ... It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

- (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.” (emphasis supplied)

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62. One of the judgments of this Court on the aspect of application of mind and requirement of judicious exercise of discretion in arriving at an order granting bail to the accused is *Brijmani Devi v. Pappu Kumar*, (2022) 4 SCC 497 : (2022) 2 SCC (Cri) 170, wherein a three-Judge Bench of this Court, while setting aside an unreasoned and casual order (*Pappu Kumar v. State of Bihar*, 2021 SCC OnLine Pat 2856 and *Pappu Singh v. State of Bihar*, 2021 SCC OnLine Pat 2857) of the High Court granting bail to the accused, observed as follows: (*Brijmani Devi v. Pappu Kumar*, (2022) 4 SCC 497 : (2022) 2 SCC (Cri) 170], SCC p. 511, para 35)

“35. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record to enable a court to arrive at a prima facie conclusion. While considering an application for the grant of bail, a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence(s) alleged against an accused.” (emphasis supplied)

9. Hon'ble Supreme Court held in *State of Rajasthan v. Balchand*, (1977) 4 SCC 308: 1977 SCC (Cri) 594: 1977 SCC OnLine SC 261 that the normal rule is bail and not jail, except where the gravity of the crime or the heinousness of the offence suggests otherwise. It was observed at page 308:

2. The basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, by the petitioner who seeks enlargement on bail from the Court. We do not intend to be exhaustive but only illustrative.

3. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh with us when considering the question of jail. So also, the heinousness of the crime....”

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

11. The status report mentions that the informant found the victim missing on 06.01.2018. The victim was subsequently found with Gagan Deep. She revealed that Abhishek (petitioner), Gagan Deep and Anshul Kaundal had taken her forcibly on a scooter. These allegations *prima facie* show the petitioner's involvement in the commission of the crime.

12. The record shows that the petitioner had absconded, and he was declared a proclaimed offender. He surrendered before the Court, and now he is in judicial custody. It was laid down by the Hon'ble Supreme Court in *Talab Haji Hussain v. Madhukar Purshottam Mondkar*, 1958 SCC OnLine SC 81: 1958 SCR 1226: 1958 CRI LJ 701: 1958 SCJ 672: AIR 1958 SC 376 that a person cannot compromise a fair trial by absenting from the Court, and if he does so, his bail is to be cancelled, even in a bailable offence.

It was observed:

“6. Now, it is obvious that the primary object of criminal procedure is to ensure a fair trial of accused persons. Every criminal trial begins with the presumption of innocence in favour of the accused, and provisions of the Code are so framed that a criminal trial should begin with and be throughout governed by this essential presumption, but a fair trial has naturally two objects in view; it must be fair to the accused and must also be fair to the prosecution. The test of fairness in a criminal trial must be judged from this dual point of view. It is, therefore, of the utmost importance that, in a criminal trial, witnesses should be able to give evidence without any inducement or threat, either from the prosecution or the defence. A criminal trial must never be so conducted by the prosecution as it would lead to the conviction of an innocent person; similarly, the progress of a criminal trial must not be obstructed by the accused so as to lead to the acquittal of a really guilty offender. The acquittal of the innocent and the conviction of the guilty are the objects of a criminal trial, and so there can be no possible doubt that if any conduct on the part of an accused person is likely to obstruct a fair trial, there is

occasion for the exercise of the inherent power of the High Courts to secure the ends of justice. There can be no more important requirement of the ends of justice than the uninterrupted progress of a fair trial, and it is for the continuance of such a fair trial that the inherent powers of the High Courts are sought to be invoked by the prosecution in cases where it is alleged that accused persons, either by suborning or intimidating witnesses, are obstructing the smooth progress of a fair trial. Similarly, if an accused person who is released on bail jumps bail and attempts to run to a foreign country to escape the trial, that again would be a case where the exercise of the inherent power would be justified in order to compel the accused to submit to a fair trial and not to escape its consequences by taking advantage of the fact that he has been released on bail and by absconding to another country. In other words, if the conduct of the accused person subsequent to his release on bail puts in jeopardy the progress of a fair trial itself and if there is no other remedy which can be effectively used against the accused person, in such a case, the inherent power of the High Court can be legitimately invoked. In regard to non-bailable offences, there is no need to invoke such power because Section 497(5) specifically deals with such cases. The question which we have to decide in this case is whether the exercise of inherent power under Section 561-A against persons accused of bailable offences who have been released on bail is contrary to or inconsistent with the provisions of Section 496 of the Code of Criminal Procedure.” (Emphasis supplied)

13. It was held by a Division Bench of the Calcutta High Court in *Nagendra Nath Chakravarti, In re*, 1923 SCC OnLine Cal 318: 1924 Cri LJ 732: AIR 1924 Cal 476 that the primary purpose of granting bail is to secure the presence of the accused during the Trial. It was observed:

“It is indisputable that bail is not to be withheld merely as a punishment. The requirements as to bail are to secure the attendance of the accused at the trial: *R. v. Rose* [(1898) 18 Cox. 717. 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: *Re Robinson* [(1854) 23 L.J.Q.B. 286: 2 W.R. 424.], *R. v. Scaife* [(1841) 9 Dowling P.C. 553: 5 Jurist 700.]. The test is applied by reference to the following considerations:

(a) The nature of the accusation: *R. v. Barronet* [(1852) 1 E. & B. 1: Dearsley 51.], *R. v. Butler* [(1861) 14 Cox. 530 : 8 L.R. (Ir.) 39.] ;

(b) The nature of the evidence in support of the accusation: *Re Robinson* [(1854) 23 L.J.Q.B. 286: 2 W.R. 424.], *R. v. Butler* [(1861) 14 Cox. 530 : 8 L.R. (Ir.) 39.] , *R. v. McCormick*; [(1864) 17 Ir. C.L.R. 411.]

(c) The severity of the punishment which conviction will entail: *Re Robinson* [(1854) 23 L.J.Q.B. 286: 2 W.R. 424.], and this explains the reluctance of Courts to grant bail on charges of murder: *Re Barthelemy* [(1852) 1 B. & B. 8: Dearsley 60.], *R. v. Andrews* [(1844) 2 D. & L. 10: 13 L.J.M.C. 113.]. In this connection, we may recall that in England, bail in treason or felony is discretionary in the High Court or Courts having jurisdiction to try the offence: *R. v. McCartie* [(1859) 11 Ir. C.L.R. 188, 192.], *R. v. Platt* [(1777) 1 Leach 157.]; on the other hand, bail in misdemeanour is said to be of right at Common Law: *R. v. Spilsbury* [[1898] 2 Q.B. 615.]; *R. v. Badger* [(1843) 4 Q.B. 468, 472: D. & M. 375: 4 St. T.N.S. 1387.]; *Re Frost* [(1888) 4 T.L.R. 757.]; see also *R. v. Crowe* [(1829) 4 C. & P. 251.]; *R. v. Beardmore* [(1836) 7 C. & P. 497.] ; *R. v. Osborn* [(1837) 7 C. & P. 799.] *King v. Fortier* [(1902) 13 Quebec K.B. 251: 9 Canada Cr. Cas. 191: 1 Ann. Cas. 10.] . This distinction is reflected in sections 496 and 497 of the Criminal Procedure Code, which respectively treat of the grant of bail in cases of what are described in the

phraseology of the Indian Legislature asailable and non-ailable offences.”

14. A similar view was taken by the Hon’ble Supreme Court in *Sanjay Chandra v. CBI*, (2012) 1 SCC 40: (2012) 1 SCC (Cri) 26: (2012) 2 SCC (L&S) 397: 2011 SCC OnLine SC 1502, wherein it was observed at page 52:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by a reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is 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.”

15. Therefore, there is a force in the submission of Mr Lokender Kutleuria, learned Additional Advocate General, that the petitioner is not likely to attend the trial in case of his release on bail. Since the primary reason for granting bail is that the petitioner should be available to face the trial, which is lacking in the present case, the petitioner is not entitled to bail on this consideration.

16. The application shows that FIR Nos. 189 of 2015, 56 of 2017, 18 of 2016 and 224 of 2016 have been registered against the

petitioner, which shows that the petitioner has criminal antecedents. This Court dealt with the relevance of criminal antecedents while granting bail in *Champa vs. State of H.P.:* 2025:HHC:28899 and held that the criminal antecedents would disentitle an accused from the concession of bail. This judgment was unsuccessfully assailed before the Hon'ble Supreme Court in *SLP(Criminal) 19120 of 2025* titled *Champa Devi vs State of H.P.*, decided on 27.11.2025. Therefore, the relevance of criminal antecedents cannot be ignored. In the present case, the registration of the FIRs against the petitioner shows that the chances of the petitioner committing a similar offence cannot be ruled out.

17. It was submitted that the FIR does not mention any material connecting the petitioner to the commission of the crime. This submission will not help the petitioner because the status report mentions that the informant had disclosed that she was taken by Abhishek Jalandharia, Gagan Deep and Anshul Kaundal forcibly on a scooter. The FIR was lodged by the informant's mother, who did not know the whereabouts of the victim, and she could not have named the petitioner. Thus, the

absence of the petitioner's name in the FIR will not make any difference.

18. It was submitted that no call detail record was produced to connect the petitioner to the commission of the crime. This submission will not help the petitioner because the victim had specifically named him, and the call detail record was not required.

19. It was submitted that the grant of bail is the rule and the refusal is the exception. However, in the present case, the conduct of the petitioner shows that he cannot be trusted to join the trial. Therefore, the principle that the grant of bail is the rule and refusal and exception will not apply to him.

17. It was submitted that the petitioner had no role in the taking away of the victim, and the victim had left the home herself. The submission is contrary to the status report, in which it was mentioned that the petitioner and the co-accused had taken the victim on the scooter.

18. It was submitted that the two accused have already been released on bail, and the principal accused against whom the allegations are substantially graver is not in custody.

Therefore, the petitioner is entitled to the concession of bail on the principle of parity. This submission will not help the petitioner. The principle of parity demands that the circumstances between the petitioner and the co-accused should be similar. It was laid down by the Hon'ble Supreme Court in *Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana*, (2021) 6 SCC 230: (2021) 2 SCC (Cri) 722: 2021 SCC OnLine SC 335 that while determining the parity, the role of the accused has to be considered. It was observed at page 246

“Parity, while granting bail, must focus upon the role of the accused. Merely observing that another accused who was granted bail was armed with a similar weapon is not sufficient to determine whether a case for the grant of bail based on parity has been established. In deciding the aspect of parity, the role attached to the accused, their position in relation to the incident, and the victims is of utmost importance. The High Court has proceeded on the basis of parity on a simplistic assessment as noted above, which again cannot pass muster under the law.”

19. This position was reiterated in *Tarun Kumar v. Enforcement Directorate*, AIR 2024 SC 169: 2023 SCC OnLine SC 1486, wherein it was observed:

“18. The submission of learned Counsel Mr Luthra to grant bail to the appellant on the ground that the other co-accused, who were similarly situated as the appellant, have been granted bail, also cannot be accepted. It may be noted that parity is not the law. While applying the

principle of parity, the Court is required to focus upon the role attached to the accused whose application is under consideration.”

20. The petitioner had absconded in the present case, whereas the other co-accused attended the Trial. Hence, the petitioner cannot claim any parity with the co-accused.

21. No other point was urged.

22. In view of the above, the present petition fails, and it is dismissed.

23. 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**

**1<sup>st</sup> July, 2026**  
(Chander)