

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) Nos. 1530 to 1533 of 2025

Reserved on: 22.08.2025

Date of Decision: 27.08.2025

1. Cr. MP(M) No. 1530 of 2025

Adil ...Petitioner

Versus

State of H.P. ...Respondent

2. Cr. MP(M) No. 1531 of 2025

Gufran ...Petitioner

Versus

State of H.P. ...Respondent

3. Cr. MP (M) No. 1532 of 2025

Shoaib ...Petitioner

Versus

State of H.P. ...Respondent

4. Cr. MP (M) No. 1533 of 2025

Armaan ...Petitioner

Versus

State of H.P. ...Respondent

Whether reporters of the local papers may be allowed to see the judgment? Yes

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ Yes.

For the Petitioner(s) : M/s. Anirudh Sharma & Pavinder,
Advocate, in all the petitions.

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

Mr. Ankit Dhiman, Advocate, for
the informant.

Rakesh Kainthla, Judge

The petitioners have filed the present petitions for seeking regular bail in FIR No. 26 of 2025, dated 11.03.2025, registered at Police Station Kandaghat, District Solan, H.P for the commission of offences punishable under Sections 126(2), 352, 79 and 78(1) of Bharatiya Nayaya Sanhita (BNS), 2023 and Section 12 of Protection of Children from Sexual Offences Act, 2012 (POCSO Act). Since all the petitions have arisen out of the same FIR, therefore, these are being taken up together for convenience to avoid repetition.

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

2. It has been asserted that the petitioners are innocent and that they were falsely implicated. The petitioners are the residents of the addresses mentioned by them in their bail petitions, and there is no likelihood of their absconding. They would abide by all the terms and conditions which the Court may impose. Hence, the petitions.

3. The petitions are opposed by filing separate status reports asserting that the informant made a complaint to the police that Armaan, Gufran, Soaib and Adil (the present petitioners) harassed the informant's daughters aged 13 years and 14 years, when they were returning from school. The police registered the FIR and conducted the investigation. The police arrested the petitioners and filed a charge sheet on 22.04.2025 after the completion of the investigation. Hence, the status reports.

4. I have heard M/s. Anirudh Sharma and Pavinder, learned counsel for the petitioners, Mr. Lokender Kutlehria, learned Additional Advocate General for the respondent/State, and Mr. Ankit Dhiman, learned counsel for the informant.

5. Mr. Anirudh Sharma, learned counsel for the petitioners, submitted that the petitioners are innocent and they were falsely implicated. The petitioners were arrested on 04.04.2025, and they have remained in custody for more than 04 months. The charge-sheet has been filed before the learned Trial Court, and no fruitful purpose would be served by detaining the petitioners in custody. The petitioners would abide by the terms and conditions which the Court may impose. Therefore, he prayed that the present petitions be allowed and the petitioners be released on bail.

6. Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State, submitted that the petitioners had sexually harassed the victims. Their act frightened and traumatised the victims. Releasing the petitioners on bail will compromise the safety of the victims. Therefore, he prayed that the present petitions be dismissed.

7. Mr. Ankit Dhiman, learned counsel for the father of the victims, supported the submissions made by Mr. Lokender Kutlehria, learned Additional Advocate General, for the respondent/State and submitted that the petitioners had filed a

bail petitions before the learned Trial Court. This Court and the learned Trial Court have concurrent jurisdiction, and the bail petitions lie before this Court if there is a change in the circumstances. The petitioners have not pleaded any change in circumstances, and the bail petitions filed by them are not maintainable. The victims will not be able to get over the trauma suffered by them at the hands of the petitioners. The petitioners would harass the other girls of the village, in case of their release on bail; hence, he prayed that the present petitions be dismissed.

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

9. The parameters for granting bail were considered by the Hon'ble Supreme Court in *Ajwar v. Waseem* (2024) 10 SCC 768: 2024 SCC OnLine SC 974, wherein it was observed at page 783: -

“Relevant parameters for granting bail

26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the

gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer: *Chaman Lal v. State of U.P.* [*Chaman Lal v. State of U.P.*, (2004) 7 SCC 525: 2004 SCC (Cri) 1974]; *Kalyan Chandra Sarkar v. Rajesh Ranjan* [*Kalyan Chandra Sarkar v. Rajesh Ranjan*, (2004) 7 SCC 528: 2004 SCC (Cri) 1977]; *Masroor v. State of U.P.* [*Masroor v. State of U.P.*, (2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368]; *Prasanta Kumar Sarkar v. Ashis Chatterjee* [*Prasanta Kumar Sarkar v. Ashis Chatterjee*, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765]; *Neeru Yadav v. State of U.P.* [*Neeru Yadav v. State of U.P.*, (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527]; *Anil Kumar Yadav v. State (NCT of Delhi)* [*Anil Kumar Yadav v. State (NCT of Delhi)*, (2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425]; *Mahipal v. Rajesh Kumar* [*Mahipal v. Rajesh Kumar*, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558].]

10. This position was reiterated 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

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 an 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 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 to 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)

11. A similar view was taken in *Shabeen Ahmed versus State of U.P.*, 2025 SCC Online SC 479.

12. The present petitions have to be decided as per the parameters laid down by the Hon’ble Supreme Court.

13. Mr Ankit Dhiman, learned counsel for the informant, submitted that the learned Sessions Court has rejected the bail petition, and the present petitions lie when there is a change in the circumstances. This submission cannot be accepted. It was laid down by the Bombay High Court in *Devi Das Raghu Nath Naik v. State*, 1987 SCC OnLine Bom 277: (1988) 1 Bom CR 22: 1989 Cri LJ 252 that the bail jurisdiction conferred upon the High Court and the Sessions Court is independent. The High Court can entertain a bail petition when the bail is refused by the Sessions Court. It was observed at page 25:

8. The above view of the learned Single Judge of the Kerala High Court appears to me to be correct. In fact it is now well-settled that there is no bar whatsoever for a party to approach either the High Court or the Sessions Court with an application for an ordinary bail made under section 439 Cr. P.C. The power given by section 439 to the High Court or to the Sessions Court is an independent power and thus, when the High Court acts in the exercise of such power it does not exercise any revisional jurisdictions, but its original special jurisdiction to grant bail. This being so, it becomes obvious that although under section 439 Cr. P.C. concurrent jurisdiction is given to the High Court and Sessions Court the fact that the Sessions Court has refused a bail under Section 439 does not operate as a bar for the High Court entertaining a similar application under section 439 on the same facts and for the same offence. However, if the choice was made by the party to move first the High Court and the High Court has dismissed the application, then the decorum and the hierarchy of the Courts require that if the Sessions Court is moved with a similar application on the same facts, the said application be dismissed. This can also be inferred from the decision of the Supreme Court in *Gurcharan Singh's case* (above).

14. Thus, the submission that the bail petitions lie before this Court only on a change in circumstances after the dismissal of a similar bail petitions before the High Court is not acceptable.

15. A perusal of the status report shows that the petitioners had harassed the victims, who were aged 13 and 14 years. They also followed them to their home. There is a force in the submission made on behalf of the respondent/State that the victims would be traumatised by the acts of the petitioners. However, that is not sufficient to deny bail to the petitioners. They would be convicted and sentenced for the offence committed by them, if found guilty, but bail cannot be denied as a punishment to them before their conviction.

16. The status report shows that no other case was registered against the petitioners. The petitioners were arrested on 04.04.2025, and they have already spent more than 04 months in prison. They deserve a chance to reform themselves. As far as the danger to the victims by the release of the petitioners on bail is concerned, the same can be avoided by imposing strict conditions.

17. The petitioners asserted that they are the permanent residents of the addresses mentioned by them in the bail petitions. This was not stated to be incorrect in the status reports; therefore, there is no chance of the petitioners absconding.

18. Consequently, the present petitions are allowed, and the petitioners are ordered to be released on bail subject to their furnishing bail bonds in the sum of ₹1,00,000/- each with one surety each of the like amount to the satisfaction of the learned Trial Court. While on bail, the petitioners will abide by the following terms and conditions: -

- (I) The petitioners will not intimidate the witnesses, nor will they influence any evidence in any manner whatsoever;
- (II) The petitioners shall attend the trial on each and every hearing and will not seek unnecessary adjournments;
- (III) The petitioners will not leave the present address for a continuous period of seven days without furnishing the address of the intended visit to the SHO concerned, the Police Station concerned and the Trial Court;
- (IV) The petitioners will surrender their passports, if any, to the Court; and

- (V) The petitioners will furnish their mobile number and social media contact to the Police and the Court and will abide by the summons/notices received from the Police/Court through SMS/WhatsApp/Social Media Account. In case of any change in the mobile number or social media accounts, the same will be intimated to the Police/Court within five days from the date of the change.
- (VI) The petitioners will not visit the village in which the victims are residing, nor will they try to contact them in any manner during the pendency of the proceeding.

19. It is expressly made clear that in case of violation of any of these conditions, the prosecution will have the right to file a petition for cancellation of the bail.

20. The petitions stand accordingly disposed of. A copy of this order be sent to the Superintendent of District Jail Solan, District Solan, H.P. and the learned Trial Court by FASTER.

21. The petitions stand accordingly disposed of.

22. The observations made hereinabove are regarding the disposal of the petitions and will have no bearing, whatsoever, on the case's merits.

23. A downloaded copy of this order shall be accepted by the learned Trial Court while accepting the bail bonds from the

petitioner, and in case said Court intends to ascertain the veracity of the downloaded copy of the order presented to it, the same may be ascertained from the official website of this Court.

(Rakesh Kainthla)
Judge

27th August 2025
(Shamsh Tabrez)