
(2025) 11 SHI CK 0005

Himachal Pradesh HC

Case No: Criminal Miscellaneous Petition (M) No. 2493 Of 2025

Birender Singh

APPELLANT

Vs

State Of H.P.& Anr.

RESPONDENT

Date of Decision: Nov. 17, 2025

Acts Referred:

- Bharatiya Nagarik Suraksha Sanhita, 2023-Section 183, 483
- Bharatiya Nyaya Sanhita, 2023-Section 64, 351(2)

Hon'ble Judges: Virender Singh, J

Bench: Single Bench

Advocate: Praveen Chauhan, Rakesh Chauhan, H.S. Rawat, Mohinder Zharaick, Rohit Sharma, Ranjna Patial, Priya Sharma

Judgement

Virender Singh, J

1. By way of the present application, filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), applicant-Birender Singh has sought his release, on bail, during the pendency of the trial, arising out of FIR No.92 of 2025, dated 17.09.2025, registered under Sections 64, 351(2) of the Bhartiya Nyaya Sahinta (hereinafter referred to as 'BNS'), with Police Station, Parwanoo, District Solan, H.P.
2. According to the applicant, he is innocent person and has falsely been implicated, in this case, at the instance of the complainant, who has been impleaded, in the present case, as respondent No.2, vide order dated 15.10.2025.
3. According to the applicant, he had earlier tried his luck by moving similar bail application, before the Court of learned Additional Sessions Judge-I, Solan, District Solan, H.P. However, the same was dismissed, vide order dated 07.10.2025.
4. According to the applicant, respondent No.2, when, produced before the Court of learned Additional Chief Judicial Magistrate, Kasauli, District Solan, H.P., for recording her statement, under Section 183 of BNSS, has stated that she had made a false complaint against the applicant, under the pressure of her brother.

5. The applicant further pleaded that he is the sole bread earner of his family, consisting of his wife and one minor son.

6. On the basis of the above facts, Mr. Praveen Chauhan & Mr. Rakesh Chauhan, Advocates, appearing for the applicant, has given certain undertakings on behalf of the applicant, for which, the applicant is ready to abide by, in case, he is ordered to be released on bail, during the pendency of the trial.

7. On the basis of the above facts, a prayer has been made to allow the bail application.

8. When, put to notice, the police has filed the status report, disclosing therein, that on 17.09.2025, respondent No.2, appeared before the police and moved the complaint, mentioning therein, that Virender Thakur had called from his Mobile Phone No.62841-46039 to the mobile phone of prosecutrix (respondent No.2), bearing No.87087-89488 and allured her to provide a job. On 15.09.2025, at about 3:00/4:00 PM, they had discussed the matter with regard to the job in Hotel Paraddse. Thereafter, applicant took her to Room No.401 and raped her.

8.1. Elaborating her stand, she has further alleged that she is residing with her cousin and is in search of the job. According to her, about one month ago, she received a phone call from an unknown person, who has allured her to provide a job. The complainant had blocked the said number, however, he has again called her by way of Whatsapp Call from Mobile Phone No.62841-46039 and again allured her to provide a job. Since, respondent No.2 was in dire need of the job, as such, she came under the influence and on 15.09.2024 at about 3:00/4:00 PM, said person came her to meet near Kalimata Temple. Thereafter, the said person took her to Hotel Paraddse, on the pretext of providing a job at Parwanoo and thereafter, took her to Room No.401 and raped her.

8.2. It is the further case of the police that when, they had gone to the room, the Hotel Manager had not obtained any identity proof. On the basis of the above facts, she has prayed that action be taken against him.

8.3. On the basis of the above facts, police registered the case and criminal machinery swung into motion. Spot was visited and spot map was prepared. Physical evidence, was collected from the spot and was taken into possession. Statements of the witnesses were recorded. Thereafter, the applicant was arrested on 18.09.2025. He was medico legally examined and the physical evidence, so collected, by the police, was taken into possession. The vehicle i.e. Motorcycle No.HR-02AM-4989 was also taken into possession.

8.4. On 20.09.2025, respondent No.2 was produced before the Court of learned Additional Chief Judicial Magistrate, Kasauli, District Solan, H.P., where, her statement was recorded under Section 183 of BNSS, in which, she has stated that no wrong act has been done with her. The report from SFSL Junga is still awaited.

9. On the basis of the above facts, a prayer has been made to dismiss the application.

10. Considering the fact that respondent No.2 has changed her version, when, appeared before the Court, where, her statement under Section 183 of BNSS was recorded, this Court is of the view that no useful purpose would be served by keeping the applicant in judicial custody that too for the indefinite period, as the pre-trial punishment is prohibited under the law.

11. Moreover, the applicant is permanent resident of District Chamba, as such, it cannot be apprehended that in case, he is ordered to be released on bail, he may not be available for the trial.

12. Moreover, chances of commencement and conclusion of trial against the applicant, in near future are not so bright.

13. Although, at the time of deciding the bail application, merits of the case should not be discussed, but the admitted fact that in the statement under Section 183 of BNSS, she has given a clean chit to the applicant, by deposing, that nothing wrong has been done with her, cannot be ignored, at this stage.

14. Considering all these facts, this Court is of the view that the present bail application is liable to be allowed and is accordingly allowed.

15. Consequently, the applicant is ordered to be released, on bail, in case FIR No.92 of 2025, dated 17.09.2025, registered under Sections 64, 351(2) of BNS, with Police Station Parwanoo, District Solan, H.P., on his furnishing personal bond in the sum of Rs.50,000/-, with one surety of the like amount, to the satisfaction of the learned Chief Judicial Magistrate/any Judicial Magistrate First Class, stationed at Solan.

16. This order, however, shall be subject to the following conditions:-

a) Applicant shall 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) Applicant shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;

c) Applicant shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or the Police Officer, and

d) Applicant shall not leave the territory of India without the prior permission of the Court.

17. 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.

18. It is made clear that respondent-State is at liberty to move an appropriate application, in case, any of the bail conditions is found violated by the applicant.

19. The Registry is directed to forward a soft copy of the bail order to the Superintendent of Jail, District Jail, Solan, District Solan, Himachal Pradesh, through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

20. In case, the applicant is not released within a period of seven days from the date of grant of bail, the Superintendent of Jail, District Jail, Solan, District Solan, Himachal Pradesh, is directed to inform this fact to the Secretary, DLSA, Solan. The Superintendent of Jail, District Jail, Solan, District Solan, Himachal Pradesh, is further directed that if the applicant fails to furnish the bail bonds, as per the order passed by this Court, within a period of one month from today, then, the said fact be submitted to this Court.