

(2026) 02 SHI CK 1681

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No. 138, 141 Of 2026

Niki Parmar @ Jogi And Others

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 23-02-2026

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 183, 483
Immoral Traffic (Prevention) Act, 1956 — Section 4, 5

Citation : (2026) 02 SHI CK 1681

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Sanjeev Bhushan, Maan Singh, Rajan Kahol, Vishal Panwar, Ravi Chauhan, Anish Banshtu

Final Decision : Allowed

Judgement

Sandeep Sharma, J

1. Bail petitioners namely Niki Parmar @ Jogi and Dharmender Solanki @ Chhotu, who are behind the bars for almost two months, have 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. 214 of 2025 dated 27.12.2025, registered at Police Station Manali, District Kullu, Himachal Pradesh, under Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956.

2. Pursuant to orders passed by this Court, respondent-State has filed status report and ASI Devender Kumar has come present with record. Record perused and returned.

3. Close scrutiny of record/status report reveals that police after having received secret information that petitioners herein indulge in illegal trade of immoral trafficking, constituted a team and sent decoy clients to the petitioners, who allegedly after having received advance payment through their mobile phones agreed to make available girls. Allegedly, after receipt of advance payment,

petitioner called upon the decoy clients, who called them at Bahanu Bridge situate near Shani Mandir, where petitioners alongwith two girls were sitting in Baleno Car bearing registration No. RJ60CC3815. After having associated independent witnesses, police firstly rescued two girls sitting in the car and thereafter, arrested the petitioners, who during investigation, disclosed that person namely Daya Ram, resident of Rajasthan, is also involved in the crime. Allegedly, rescued girls disclosed to the police that they were being forced in prostitution. After having completed necessary codal formalities, police registered the FIR as detailed herein above and since then, petitioners are behind the bars. Since investigation in the cases is complete and nothing remains to be recovered from the bail petitioners, they have approached this Court in the instant proceedings for grant of regular bail.

4. Mr. Anish Banshtu, learned Deputy Advocate General, while opposing the prayer made by the bail petitioners for grant of bail vehemently argued that investigation qua the petitioners is complete, but since main accused namely Daya Ram is yet to be arrested, it may not be in the interest of justice to enlarge them on bail, who have committed heinous crime by pushing innocent girls in the trade of immoral trafficking. Mr. Banshtu further stated that since petitioners hail from State of Madhya Pradesh, there is every likelihood of their absconding from trial. He stated that in the event of being enlarged on bail, bail petitioners may not only flee from justice, but may also temper with the prosecution evidence.

5. Having heard learned counsel for the parties and perused material available on record, this Court finds that bail petitioners are behind bars for approximately two months. Though at the first instance, allegedly, petitioners disclosed involvement of one Daya Ram in the alleged offence, but fact remains that police has not been able to arrest afore Daya Ram. Bail, as prayed for, is being opposed on the ground that one of the co-accused is yet to be arrested. Since investigation qua the petitioners is complete and at present, they are in the judicial custody, ground of non- arrest of the co-accused-Daya Ram may not be of much relevance.

6. Since guilt of the petitioners is yet to be ascertained by the prosecution by leading cogent and convincing evidence, their freedom cannot be curtailed indefinitely on account of non-arrest of co-accused Daya Ram, whose antecedents as well as address have been already made available by the petitioners to the investigating agency. Though by way of inviting attention of this court to the statements of the rescued girls recorded under Section 183 of BNSS, learned Deputy Advocate General attempted to state that rescued girls were forcibly pushed in the trade of immoral trafficking, but there is no explanation on record that how and under what circumstances, rescued girls had come to the State of Himachal Pradesh from other States, but once afore statements clearly reveal that rescued girls were major, this court has reason to presume and believe that they must have got fair and enough chance of reporting the matter to police or near and dear ones with regard to their forcible

confinement, if any, by the accused. Though aforesaid aspects of the matter are to be decided by the learned trial Court on the basis of evidence adduced on record by the prosecution, but taking note of the aforesaid glaring aspect of the matter, this court sees no reason to let the bail petitioners incarcerate in jail for an indefinite period during trial, especially when their guilt is yet to be established.

7. 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. Apprehension expressed by the learned Additional Advocate General that in the event of petitioner's being enlarged on bail, they may flee from justice, can be best met by putting the bail petitioners to stringent conditions as has been fairly stated by the learned counsel for the petitioners.

8. 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.

9. Hon'ble Apex Court in Criminal Appeal No. 227/2018, Dataram Singh vs. State of Uttar Pradesh & Anr decided on 6.2.2018 has held that freedom of an individual cannot be curtailed for indefinite period, especially when his/her guilt is yet to be proved. It has been further held by the Hon'ble Apex Court in the aforesaid judgment that a person is believed to be innocent until found guilty.

10. Hon'ble Apex Court in Sanjay Chandra versus Central Bureau of Investigation (2012)1 Supreme Court Cases 49 has held that gravity alone cannot be a decisive ground to deny bail, rather competing factors are required to be balanced by the court while exercising its discretion. It has been repeatedly held by the Hon'ble Apex Court that 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.

11. In Manoranjana Sinh alias Gupta versus CBI, (2017) 5 SCC 218, Hon'ble Apex Court has held that the 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 also, normal rule is of bail and not jail. Apart from above, 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.

12. The Apex Court in Prasanta Kumar Sarkar versus Ashis Chatterjee and

another (2010) 14 SCC 496, has laid down various principles to be kept in mind, while deciding petition for bail viz. prima facie case, nature and gravity of accusation, punishment involved, apprehension of repetition of offence and witnesses being influenced.

13. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, petitioners have carved out a case for grant of bail, accordingly, the petitions are allowed and the petitioners are ordered to be enlarged on bail in aforesaid FIR, subject to their furnishing personal bonds in the sum of Rs. 2,00,000/- each, with two local sureties in the like amount to the satisfaction of concerned Chief Judicial Magistrate/trial Court, with following conditions:

- a. They shall make themselves 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. They shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;
- c. They shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or the Police Officer; and
- d. They shall not leave the territory of India without the prior permission of the Court.

14. It is clarified that if the petitioners misuse their liberty or violate any of the conditions imposed upon them, the investigating agency shall be free to move this Court for cancellation of the bail.

15. Any observations made hereinabove shall not be construed to be a reflection on the merits of the main case and shall remain confined to the disposal of these applications alone. The bail petitions stand disposed of accordingly.

16. The petitioners are permitted to produce copy of 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.