

(2026) 03 SHI CK 0696

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No. 184, 186 Of 2026

Sandeep Kaur And Others

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 11-03-2026

Acts Referred:

Constitution Of India, 1950 — Article 21
Bharatiya Nyaya Sanhita, 2023 — Section 143(3)
Immoral Traffic (Prevention) Act, 1956 — Section 4, 5

Citation : (2026) 03 SHI CK 0696

Hon'ble Judges : Rakesh Kainthla, J

Bench : Single Bench

Advocate : Bimal Gupta, Kusum Chaudhary, Ajit Sharma

Final Decision : Dismissed

Judgement

Rakesh Kainthla, J

1. Since both these petitions arise from a common FIR and common questions of fact and law are involved in both the petitions, hence they are being disposed of by a common order.

2. The petitioners have filed the present petitions for seeking regular bail in FIR No. 209 of 2025, dated 22.12.2025, registered for the commission of offences punishable under Section 143 (3) of the Bharatiya Nyaya Sanhita (BNS) and Sections 4 & 5 of the Prevention of Immoral Trafficking Act at Police Station Manali, District Kullu, H.P.

2. It has been asserted that, as per the prosecution, the police were on patrolling duty on 21.12.2025. They received a secret information at Rambag that some persons were involved in immoral trafficking. The information was conveyed to the police station, and the police officials were instructed to report to the traffic office Rambag in civil clothes. Police associated independent witnesses Sunita Sharma and Rohit Kumar. The police registered the FIR and investigated the

matter. The petitioners are working as Safai Karamchari, and they were falsely implicated. They have minor children, and there is no one to look after them. The investigation is complete. The petitioners are permanent residents of Phagwara, Tehsil Kapurthala, Punjab, and there is no chance of their absconding. The petitioners would abide by the terms and conditions that the Court may impose. Hence, it was prayed that the present petitions be allowed and the petitioners be released on bail.

3. The petition is opposed by filing a status report asserting that the police party was on patrolling duty on 22.12.2025. They received secret information that some sex workers were operating at Mall Road, Manali, and Bus-stand Manali. Vishwa Dev and Suraj assisted them. Sandeep Kaur, Kavita Khatoon and Santosh were bringing girls on the pretext of getting them house cleaning jobs. However, they were being forced into prostitution. The information was credible. 4-5 officials were called in civil dress. Sunita Sharma, Vice President, M.C. Manali and Rohit Kumar were associated as independent witnesses. A rukka was prepared. ₹ 5000/- was taken out by the Inspector. ₹ 2500/- were handed over to C. Sunil Mahant, and ₹ 2500/- were handed over to C. Mohan. The details of these currency notes were reduced to writing. They were asked to visit the spot and procure the services by paying money. They were also asked to inform the Inspector by missed call in case money was accepted. A missed call was made by C. Mohan at 1.40. The location was also shared. The police reached the spot and found 7 women and two men. The police apprehended them. They revealed their names as Santosh, Kavita Khatoon, Sandeep Kaur, R, A, F, S, Vishwa Dev and Suraj. R, A, F and S revealed that they were brought by Santosh, Kavita Khatoon and Sandeep Kaur with a promise to get them engaged as household help. However, they were forced into prostitution with the help of Vishwa Dev and Suraj. Two currency notes of ₹ 500/- each were found in possession of Santosh, Sandeep, Kavita, Vishwa Dev, and Suraj. Their serial numbers tallied with the currency notes handed over by the Inspector. The police arrested Sandeep Kaur, Kavita Khatoon, Vishwa Dev and Suraj. The girls rescued by the police were handed over to their relatives. The challan has been prepared and is being checked by the Public Prosecutor. The petitioners had forced the innocent girls into prostitution. They would indulge in similar offences if released on bail. Hence, the status report.

4. I have heard Mr Bimal Gupta, learned Senior Advocate, assisted by Ms Kusum Chaudhary, Advocate, for the petitioners and Mr Ajit Sharma, learned Deputy Advocate General, for the respondent/State.

5. Mr Bimal Gupta, learned Senior Counsel for the petitioners, submitted that the petitioners are innocent and they were falsely implicated. The girls had not made any complaint to any person, and the statements made by them that the petitioners had forced them into prostitution cannot be believed. They were major and free to act as per their wishes. The petitioners have minor children, and there is no one to look after them. The petitioners do not have any criminal

antecedents. They would abide by all the terms and conditions that the Court may impose. Hence, he prayed that the present petitions be allowed and the petitioners be released on bail.

6. Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State, submitted that the petitioners had indulged in immoral trafficking. They were living on the earnings of prostitution, which is evident from the recovery of the marked currency notes. The petitioners would indulge in the commission of similar offences in case of their release on bail. Therefore, he prayed that the present petitions 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 petitions have to be decided as per the parameters laid down by the Hon’ble Supreme Court.

11. The status report shows that the police had apprehended Sandeep Kaur, Santosh, Kavita Khatoon, Vishwa Dev, Suraj, R, A, F, and S. The police also recovered the currency notes handed over to the decoys from the possession of Santosh, Sandeep Kaur, Kavita Khatoon, Vishwa Dev and Suraj. The rescued girls stated that Santosh, Sandeep Kuar and Kavita Khatoon had brought them on the pretext of getting the job of household help, but they were forced into prostitution. Section 5 of the Immoral Traffic (Prevention) Act, 1956, punishes a person who induces another to engage in prostitution. Therefore, the Section deals with not only the forcible acts but the inducement as well. The rescued girls specifically stated that they were brought by the petitioners and other persons with an assurance to get them job of household help, but they were pushed into prostitution. These statements prima facie satisfy the requirements of Section 5 of the Immoral Traffic (Prevention) Act, 1956.

12. It was submitted that all the girls were major and they could not have been forced into immoral trafficking. This submission will not help the petitioners. Section 5 deals with the inducement to carry out prostitution. Thus, if a person is merely induced, even on the assurance of payment of money, the Section would be attracted. Therefore, even if girls were carrying out the activities with their consent, but based on the inducement provided by the petitioners, the offence would be made out.

13. It was laid down by this Court in *Arun Thakur vs State* 2021 CRI. L. J. 4658 that a person introducing women into the flesh trade is pervert and a threat to society who does not deserve any bail. It was observed:

“12. Those who, by deceit, introduce adolescents or women into the flesh trade,

the pimps bringing customers to seduce, and the customers who, despite realizing lack of will and consent from the victims' body language, gestures, trauma, and fear, continue to satisfy their lust, are perverts, threats to society, and do not deserve any bail."

14. It was rightly submitted on behalf of the State that the petitioners indulged in the commission of a heinous offence. Inducing a person to become a sex worker for getting money is the worst degradation of humanity and objectifies the human body. Releasing the petitioners on bail would encourage other persons to do so and would harm society. The apprehension of the State cannot be ruled out at this stage that the petitioners may indulge in the commission of a similar offence if they are released on bail. Trial has not yet commenced, and girls would be unable to make a free and fair disclosure by the petitioners' release. Therefore, in these circumstances, the petitioners cannot be released on bail to ensure a fair trial.

15. No other point was urged.

16. In view of the above, the present petitions fail, and they are dismissed.

17. The observation made herein before shall remain confined to the disposal of the present petitions and will have no bearing, whatsoever, on the merits of the case.