

(2025) 12 SHI CK 1866

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No. 2746, 2772 Of 2025

Yasin And Others

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 20-12-2025

Acts Referred:

Bharatiya Nyaya Sanhita, 2023 — Section 61(2), 96, 137(2), 142, 249
Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 183
Indian Penal Code, 1860 — Section 34, 149

Citation : (2025) 12 SHI CK 1866

Hon'ble Judges : Rakesh Kainthla, J

Bench : Single Bench

Advocate : Vinod Chauhan, Ajit Sharma

Final Decision : Allowed

Judgement

Rakesh Kainthla, J

1. The petitioners have filed the present petitions for seeking pre-arrest bail in FIR No. 174 of 2025, dated 21.10.2025, registered for the commission of offences punishable under Sections 137(2), 249, 142, 96, and 61(2) of Bhartiya Nyaya Sanhita (BNS) at Police Station Majra, Tehsil Paonta Sahib, District Sirmaur, H.P.

2. It has been asserted that the petitioners have not committed any offence, and a false FIR was lodged against them. The custody of the petitioners is not required for any purpose, and no fruitful purpose would be served by detaining the petitioners in custody. Hence, the petitions.

3. The petitions are opposed by filing a status report asserting that the victim, aged 13 years, was missing on 20.10.2025, and the matter was reported to the police. The police registered an FIR and investigated the matter. It was found during the investigation that the victim was chatting with the petitioner, Yasin, on Instagram. The police searched the house of the petitioners, but the victim was

not found in the house. Subsequently, the victim was found abandoned on the road. The victim made a statement under Section 183 of Bhartiya Nagrik Suraksha Sanhita (BNSS), 2023, before the learned Judicial Magistrate First Class, Nahan, in which she claimed that no wrong act was done with her. Hence, the status report.

4. I have heard Mr Vinod Chauhan, learned counsel for the petitioners and Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State.

5. Mr Vinod Chauhan, learned counsel for the petitioners, submitted that the petitioners are innocent and they were falsely implicated. The victim made a statement before the learned Judicial Magistrate First Class, Nahan stating that she had left the home herself and no wrong act was done to her. There is no reasonable material to connect the petitioners to the commission of the crime. Therefore, 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 are involved in the commission of a heinous offence. The victim was aged 13 years, and the petitioner, Yasin, had taken her away from her parents' custody. The petitioner, Yameen, had harboured the petitioner, Yasin and victim by keeping them in his home. The investigation is continuing, and releasing the petitioners on bail would hamper the investigation. 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 pre-arrest bail were considered by the Hon'ble Supreme Court in Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694: 2010 SCC OnLine SC 1375, and it was observed at page 736:

"112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

(i) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

(ii) The antecedents of the applicant, including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of any cognizable offence;

(iii) The possibility of the applicant fleeing from justice; (iv) The possibility of the accused's likelihood to repeat similar or other offences;

(v) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her;

(vi) Impact of grant of anticipatory bail, particularly in cases of large magnitude affecting a very large number of people;

(vii) The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860, the court should consider with even greater care and caution because overimplication in the cases is a matter of common knowledge and concern;

(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation, and there should be prevention of harassment, humiliation and unjustified detention of the accused;

(ix) The court is to consider a reasonable apprehension of tampering of the witness and apprehension of a threat to the complainant.

(x) Frivolity in prosecution should always be considered, and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

9. The present petitions are to be decided as per the parameters laid down by the Hon'ble Supreme Court.

10. The victim stated before the learned Judicial Magistrate First Class, Nahan that she had left her home voluntarily and no person was responsible for it. She also stated that no wrong act was done to her. This statement, prima facie, does not show the kidnapping or rape of the minor or procuring the minor for immoral purposes. The victim was the best person to depose about the circumstances in which she was found missing, and when she had not supported the prosecution's case that the petitioner, Yasin, had kidnapped her, or the petitioner, Yameen, had harboured Yasin, the further detention of the petitioners is not justified.

11. In view of the above, the present petitions are allowed, and the petitioners are ordered to be released on pre-arrest bail and regular bail [Necessary correction made in compliance of order dated 19.12.2025.] on their furnishing personal bonds in the sum of ₹ 25000/- each with one surety each in the like amount to the satisfaction of the Investigating Officer and learned Trial Court [Necessary correction made in compliance of order dated 19.12.2025], subject to the following conditions:-

(i) The petitioners will join the investigation as and when directed to do so;

(ii) The petitioners will not intimidate the witnesses, nor will they influence any evidence in any manner whatsoever;

(iii) The petitioners shall attend the trial on each and every hearing and will not seek unnecessary adjournments in case of the presentation of the charge-sheet.

(iv) 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;

(V) The petitioners will surrender their passport, if any, to the Court; and

(Vi) 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.

12. The observations made heretofore shall remain confined to the disposal of the petitions and will have no bearing, whatsoever, on the merits of the case.