

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 965 of 2026

Reserved on: 28.9.2026

Date of Decision: 06.10.2026.

Pankaj Sharma

.... Petitioner

Versus

State of HP

.... Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

For the Petitioner : Mr Piyush Verma, Senior Advocate,
with Mr Anuj Bali, Advocate.

For the Respondents : Mr P.K. Nadda, Additional Advocate
General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 16 of 2026, dated 21.2.2026, registered at Police Station Ani, District Kullu, H.P., for the commission of offences punishable under Sections 326(g), 351(2) and 62 of Bharatiya Nyaya Sanhita, 2023 (BNS).

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

2. It has been asserted that the petitioner was arrested on 21.2.2026. He is innocent and has not committed any offence. The informant's daughter was residing at Shimla and was in a relationship with the petitioner for about three years. The petitioner did not approve of the relationship between his daughter and the petitioner. The informant lodged a false FIR to get rid of the petitioner. The petitioner is in judicial custody. No recovery is to be effected from the petitioner. The petitioner is a permanent resident of Tehsil Shillai, District Sirmour, H.P., and there is no chance of his absconding. He would abide by the terms and conditions that the Court may impose. The petitioner had earlier filed a bail petition, which was rejected by this Court. The police have filed the charge-sheet. Hence, the present petition.

3. The petition is opposed by filing a status report mentioning that the informant, his wife and daughter were sleeping in their rooms on 20.2.2026 at about 10.00 PM. Guddi Devi shouted at 10.30 pm that the informant's house had caught fire. The petitioner, Dharam Pal, Pramod Kumar and other villagers tried to extinguish the fire. The informant saw the petitioner driving his vehicle towards Nithar. The timber, hail

net and plastic kiltas kept in the room were burnt. The electricity meter and wire were also burnt in the fire. A cloth and a towel were found on the spot, which were smelling of petrol. The petitioner had threatened the informant that he would burn the informant and his family members in case the marriage between the informant's daughter and the petitioner was not solemnised. The police registered the FIR and investigated the matter. The police intercepted the vehicle bearing registration No. HP-34-1103 at Luhri Chowk. The petitioner was driving the vehicle. He made a disclosure statement leading to the recovery of one plastic bottle and a lighter. Bhim Singh identified the petitioner as the person who was going to the informant's house and had consumed liquor with him. FIR No.7/2026 dated 1.2.2026 was registered against the petitioner. The petitioner would indulge in the commission of a similar offence in case of his release on bail. The charge-sheet has been filed before the Court on 21.4.2026. The result of analysis is awaited from the RFSL. Hence, the status report.

4. I have heard Mr Piyush Verma, learned Senior Advocate, assisted by Mr Anuj Bali, learned counsel for the

petitioner, and Mr P.K. Nadda, learned Additional Advocate General, for the respondent-State.

5. Mr Piyush Verma, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. There is no material to connect the petitioner to the commission of the crime. The police have filed the charge-sheet before the Court, and the site plan shows that the place where the burnt articles were stacked was outside the house. This falsifies the version in the FIR that the articles were kept inside the house. *Prima facie*, the petitioner's involvement in the commission of an offence punishable under Section 326 (g) of the BNS is not made out after the investigation. The other offences are punishable with less than seven years' imprisonment. The petitioner has already remained in custody for more than five months, and no fruitful purpose would be served by his continued detention. Therefore, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr P.K. Nadda, learned Additional Advocate General, for the respondent-State, submitted that the petitioner was involved in the commission of a heinous offence. He had earlier

filed a bail petition, which was dismissed by this Court. A subsequent bail petition lies only when there is a change in the circumstances. The petitioner has not made out any case for the change in the circumstances. Hence, he prayed that the present petition be dismissed.

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

8. It is undisputed that the petitioner had earlier filed a bail petition, which was registered as Cr.MP(M) No. 395 of 2026 and was dismissed on 31.3.2026. It was laid down in the *State of Maharashtra v. Captain Buddhikota Subha Rao (1989) Suppl. 2 SCC 605* that once a bail application has been dismissed, a subsequent bail application can only be considered if there is a change of circumstances. It was observed:

“Once that application was rejected, there was no question of granting a similar prayer. That is virtually overruling the earlier decision without there being a change in the fact situation. And when we speak of change, we mean a substantial one, which has a direct impact on the earlier decision and not merely cosmetic changes, which are of little or no consequence. 'Between the two orders, there was a gap of only two days, and it is nobody's case that during these two days, drastic changes had taken place necessitating the release of the respondent on bail. Judicial discipline, propriety and comity demanded that the

impugned order should not have been passed, reversing all earlier orders, including the one rendered by Puranik, J., only a couple of days before, in the absence of any substantial change in the fact situation. In such cases, it is necessary to act with restraint and circumspection so that the process of the Court is not abused by a litigant and an impression does not gain ground that the litigant has either successfully avoided one judge or selected another to secure an order which had hitherto eluded him.

9. Similarly, it was held in *Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav* (2004) 7 SCC 528 that where an earlier bail application has been rejected, the Court has to consider the rejection of the earlier bail application and then consider why the subsequent bail application should be allowed. It was held:

“11. In regard to cases where earlier bail applications have been rejected, there is a further onus on the court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration, if the court is of the opinion that bail has to be granted then the said court will have to give specific reasons why in spite of such earlier rejection the subsequent bail application should be granted.”

10. A similar view was taken in *State of T.N. v. S.A. Raja*, (2005) 8 SCC 380, wherein it was observed:

9. When a learned Single Judge of the same court had denied bail to the respondent for certain reasons, and that order was unsuccessfully challenged before the appellate forum, without there being any major change of

circumstances, another fresh application should not have been dealt with within a short span of time unless there were valid grounds giving rise to a tenable case for bail. Of course, the principles of *res judicata* are not applicable to bail applications, but the repeated filing of bail applications without there being any change of circumstances would lead to bad precedents.

11. This position was reiterated in *Prasad Shrikant Purohit v. State of Maharashtra* (2018) 11 SCC 458, wherein it was observed:

30. Before concluding, we must note that though an accused has a right to make successive applications for the grant of bail, the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.

12. It was held in *Ajay Rajaram Hinge v. State of Maharashtra*, 2023 SCC OnLine Bom 1551, that a successive bail application can be filed if there is a material change in the circumstances, which means a change in the facts or the law. It was observed:

7. It needs to be noted that the right to file successive bail applications accrues to the applicant only on the existence of a material change in circumstances. The sine qua non for filing subsequent bail applications is a material change in circumstances. A material change in circumstances, as settled by law, is a change in the fact situation or law which requires the earlier view to be interfered with or

where the earlier finding has become obsolete. However, a change in circumstances has no bearing on the salutary principle of judicial propriety that successive bail applications need to be decided by the same Judge on the merits, if available at the place of sitting. There needs to be clarity between the power of a judge to consider the application and a person's right based on a material change in circumstances. A material change in circumstances creates in a person accused of an offence the right to file a fresh bail application. But the power to decide such a subsequent application operates in a completely different sphere, unconnected with the facts of a case. Such power is based on the well-settled and judicially recognised principle that if successive bail applications on the same subject are permitted to be disposed of by different Judges, there would be conflicting orders, and the litigant would be pestering every Judge till he gets an order to his liking, resulting in the credibility of the Court and the confidence of the other side being put in issue, and there would be wastage of the Court's time and that judicial discipline requires that such matter must be placed before the same Judge, if he is available, for orders. The satisfaction of material change in circumstances needs to be adjudicated by the same Judge who had earlier decided the application. Therefore, the same Judge needs to adjudicate whether there is a change in circumstances as claimed by the applicant, which entitles him to file a subsequent bail application.”

13. Therefore, the present bail petition can only be considered based on the change in the circumstances, and it is impermissible to review the order passed by the Court.

14. It has been submitted that the police have filed the charge-sheet after the dismissal of the earlier bail petition, in which the allegations made by the informant that the articles

were kept inside the house were not found to be correct. This submission has to be accepted as correct. The status report shows that the charge-sheet has been filed on 21.4.2026. The earlier bail petition was dismissed on 31.3.2026. The charge sheet had not been filed at the time of the dismissal of the earlier bail petition, and the petitioner is entitled to rely upon the result of the investigation.

15. The Investigating Officer prepared a site plan (Annexure A-1) in which the burnt articles have been shown outside the house at point X-1 and point X-2. Thus, the site plan prepared by the Investigating Officer does not show that the burnt articles were kept inside the house. The statements of witnesses Pramod Kumar and Guddi Devi show that the articles were kept outside the house, which corroborates the site plan. Therefore, *prima facie*, the offence punishable under Section 326 (g) of the BNS is not made out against the petitioner.

16. The Court had earlier dismissed the bail petition because the FIR disclosed that the articles were kept inside the house and, *prima facie*, the offence punishable under Section 326 (g) was made out. Since this was not found to be correct after the

investigation, there is a change in the circumstances. The result of the investigation reveals that an offence punishable under Section 326 (f) of BNS is made out, which provides for punishment of seven years and does not fall within the definition of a heinous offence. The other offences are also not heinous. The police have filed the charge-sheet before the Court, and the status report does not mention that the petitioner's custodial interrogation is required. Hence, in these circumstances, no fruitful purpose would be served by detaining the petitioner in custody.

17. It was submitted that the petitioner has criminal antecedents and he is not entitled to bail. This submission will not help the State. It was laid down by the Hon'ble Supreme Court in *Ayub Khan v. State of Rajasthan*, 2024 SCC OnLine SC 3763: 2024:INSC:994 that the criminal antecedents may not be a reason to deny bail to the accused in case of long incarceration. It was observed:

“10. The presence of the antecedents of the accused is only one of the several considerations for deciding the prayer for bail made by him. In a given case, if the accused makes out a strong *prima facie* case, depending upon the fact situation and period of incarceration, the presence of antecedents may not be a ground to deny bail. There may

be a case where a Court can grant bail only on the grounds of long incarceration. The presence of antecedents may not be relevant in such a case. In a given case, the Court may grant default bail. Again, the antecedents of the accused are irrelevant in such a case. Thus, depending upon the peculiar facts, the Court can grant bail notwithstanding the existence of the antecedents.”

18. Consequently, the present petition is allowed, and the petitioner is ordered to be released on bail, subject to his furnishing bail bond in the sum of ₹1,00,000/- with one surety in the like amount to the satisfaction of the learned Trial Court. While on bail, the petitioner will abide by the following conditions: -

- (I) The petitioner will not intimidate the witnesses, nor will he influence any evidence in any manner whatsoever.
- (II) The petitioner shall attend the trial on each and every hearing and will not seek unnecessary adjournments.
- (III) The petitioner 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 petitioner will surrender his passport, if any, to the Court; and
- (V) The petitioner will furnish his 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.

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 petition stands accordingly disposed of. A copy of this order be sent to the Jail Superintendent, Model Central Jail, Kanda, H.P. and the learned Trial Court through FASTER.

21. The observations made hereinabove are regarding the disposal of this petition and will have no bearing whatsoever on the case's merits.

(Rakesh Kainthla)
Judge

6th October, 2026
(Chander)

**CHANDER
SHEKHAR**

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CHANDER
SHEKHAR
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