

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr.MP (M) Nos. 1780 and 1781 of
2026****Reserved on: 29.09.2026****Date of Decision: 05.10.2026.**

1. Cr.MP(M) No. 1780 of 2026**Nanak Dass****...Petitioner****Versus****State of Himachal Pradesh****...Respondent**

2. Cr.MP(M) No. 1781 of 2026**Anshul Rana****...Petitioner****Versus****State of Himachal Pradesh****...Respondent**

Coram***Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting?¹ No*****For the Petitioner : Mr Manoj Pathak, Senior
Advocate with M/s Sanidhay
Pathak and Parth Sagar,
Advocates.****For the Respondent/State : Mr Ajit Sharma, Deputy
Advocate General.**

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

Rakesh Kainthla, Judge

The petitioners have filed the present petitions seeking regular bail in F.I.R. No. 40 of 2025 dated 10.07.2025, registered at Police Station, Kumarsain, District Shimla, H.P., for the commission of offences punishable under Sections 21 & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

2. It has been asserted that, as per the prosecution, the police had searched Room No. 504 of Hotel Royal Food Point at Shilaru on 10.07.2025, which was occupied by Anshul Rana and Nanak Dass, the present petitioners. The police recovered 6.2 grams of heroin. The police arrested the petitioners and seized the heroin. The allegations are false. The petitioners had filed earlier bail petitions which were dismissed by this Court. The petitioners have spent more than 1 year and 2 months in jail, and the trial has not concluded. The petitioners' right to a speedy trial is being violated. Hence, the petitions.

3. The petitions are opposed by filing status reports asserting that the police were on patrolling duty on 10.07.2025. They received secret information at about 5:45 P.M. that the

petitioners Anshul Rana and Nanak Chand were present in Room No. 501 at Hotel Royal Food Point, Shilaroo, and were selling heroin. A huge quantity of heroin could be recovered by their search. The police reduced the information to writing and sent it to the Supervisory Officer. The police joined Ajay Royal and Ajay Kumar and went to Room No. 501, where the petitioners, Anshul Rana and Nanak Dass, were found. The police searched the room in their presence and in the presence of witnesses and recovered 6.02 grams of heroin. The police seized heroin and arrested the petitioner and the co-accused. The heroin was sent to the FSL, and as per the report, it indicated the presence of Diacetylmorphine. F.I.R. No. 107 of 2024, dated 14.8.2024, was registered against the petitioner Anshul Rana at Police Station, Sadar, Shimla for the commission of offences punishable under Sections 21 & 29 of the NDPS Act. FIR No. 11 of 25 dated 22.01.2025 was registered against the petitioner Nanak Chand. The matter was listed for recording the statements of prosecution witnesses on 25.09.2026. The petitioners would indulge in the commission of similar offences in case of their release on bail. Hence, the status report.

4. I have heard Mr Manoj Pathak, learned Senior Advocate, assisted by M/s Sanidhya Pathak and Parth Sagar, learned counsel for the petitioners and Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State.

5. Mr Manoj Pathak, learned Senior Advocate for the petitioners, submitted that the petitioners are innocent and they were falsely implicated. The petitioners had earlier filed bail petitions which were dismissed by this Court. A period of more than 1 year has elapsed since the petitioners' arrest, and the prosecution has failed to complete the evidence, which violates the petitioners' right to a speedy trial. There is no reasonable prospect of early conclusion of trial. 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 have criminal antecedents. Their earlier bail petitions were dismissed, and the circumstances have not changed. The present petitions are not maintainable. Hence, 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. It is undisputed that the petitioner, Nanak Dass, had approached this Court and filed a bail petition, which was registered as Cr.MP(M) No. 2270 of 2025 and was dismissed on 14.10.2025. They had earlier filed bail petitions which were listed as Cr.MP(M) No. 7 of 2026 and Cr.MP(M) No. 8 of 2026 and were dismissed on 23.01.2026. It was held 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 that 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 petitions can only be considered on the basis of the change in the circumstances, and it is not permissible to review the order passed by the Court.

14. The status report shows that the petitioners were found in possession of 6.02 grams of heroin. The Central Government has specified 250 grams of heroin as the commercial quantity. If the principle of proportionality is applied, the petitioners have undergone a substantial part of the

imprisonment that can be awarded to them. However, the prosecution has not completed the evidence, and there is no reasonable prospect of the early conclusion of the trial. Therefore, the petitioners are entitled to bail because of the violation of their right to a speedy trial.

15. It was submitted that the petitioners have criminal antecedents and they should not be released on 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 when there is an unreasonable delay in the progress of trial. 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.”

16. Therefore, the petitioners cannot be detained in custody because they have criminal antecedents.

17. The petitioner Anshul Rana asserted that he is a permanent resident of District Shimla and petitioner Nanak Dass asserted that he is a permanent resident of District Kapurthala. This was not stated to be incorrect in the status reports filed by the State. It means that the petitioners have roots in the society and there are no chances of their absconding.

18. In view of the above, the present petitions are allowed, and the petitioners are ordered to be released on bail subject to their furnishing bail bonds in the sum of ₹1,00,000/- each with one surety each in the like amount to the satisfaction of the learned Trial Court. While on bail, the petitioners will abide by the following conditions: -

- (i) The petitioners will not intimidate the witnesses, nor will they influence any evidence in any manner whatsoever.
- (ii) The petitioners shall attend the trial on each and every hearing and will not seek unnecessary adjournments.
- (iii) The petitioners will not leave the present addresses 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 petitioners will surrender their passport, if any, to the Court; and

(v) 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.

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 petitions stand accordingly disposed of. A copy of this order be sent to the Jail Superintendent, District Jail, Kaithu, District Shimla, H.P. and learned Trial Court by FASTER.

21. The observations made hereinabove are regarding the disposal of these petitions and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

5th October, 2026
(Nikita)

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