

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 1804 of 2026

Reserved on: 05.10.2026.

Decided on: 09.10.2026

Raj Kumar

.... Petitioner

Versus

State of H.P.

.... Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No

For the Petitioner : Mr Vinod Chauhan, Advocate.

For the Respondent/State : Mr Pawan Kumar Nadda,
Additional Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 48 of 2026, dated 04.02.2026, registered at Police Station Sadar, District Mandi, H.P., for the commission of offences punishable under Sections 109, 118(1) and 352 of Bhartiya Nyaya Sanhita (BNS), 2023.

2. It has been asserted that, as per the prosecution, the informant, Prem Sagar, Labhu and Panku, had gone to Rani Bai, to

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

the petitioner's garage. An altercation took place between the petitioner and Prem Sagar over an old dispute, during which Prem Sagar sustained an injury on the left side of his chest. The police registered the FIR and investigated the matter. The petitioner had also lodged an FIR regarding the incident. He was attacked by four persons, and had caused some injuries to the assailants while exercising a right of private defence. The police seized the broken knife, CCTV footage, blood samples and other material. The police arrested the petitioner on 05.02.2026. The police have completed the investigation, and the petitioner's custody is not required. The petitioner would abide by the terms and conditions that the Court may impose. Hence, it was prayed that the present petition be allowed and the petitioner be released on bail.

3. The petition is opposed by filing a status report asserting that the informant and other persons had gone to the petitioner's garage on 04.02.2026. Raj Kumar (present petitioner) and Kaku were found at the gate of the garage. The petitioner and Prem Sagar had an argument, which turned into a scuffle. The informant and other persons rescued Prem Sagar and took him out of the garage. They found that the left chest of Prem Sagar was bleeding. One retired police official checked Prem Sagar and found that a broken piece of a

knife was embedded in the chest. The piece of the knife was removed. The remaining portion of the knife was found inside the garage. Prem Sagar disclosed on the way to the hospital that the knife blow was inflicted by Kaku. The police investigated the matter and checked the CCTV footage. It was found that the informant party had entered the petitioner's garage, where they argued with Raj Kumar. Raj Kumar took out a knife from his pocket and inflicted a blow on the left chest of Prem Sagar. Raj Kumar threw the handle on the spot. The police arrested Raj Kumar and seized the material objects. The CCTV footage was taken into possession and was sent to SFL for analysis. The Medical Officer stated that the injury was endangering the life of the patient, and the nature of the injury was grievous. DNA of Prem Sagar was found on his clothes. The report of analysis stated that it was not possible to compare the facial features in the photograph and the CCTV footage due to the long distance. As per the opinion of the Medical Officer, the injury could have been caused by means of a knife. The charge sheet was filed before the Court, and the matter is listed for recording the statements of witnesses with effect from 29.10.2026 till 31.10.2026. Hence, the status report.

4. I have heard Mr Vinod Chauhan, learned counsel for the petitioner and Mr Pawan Kumar Nadda, learned Additional Advocate General for the respondent/State.

5. Mr Vinod Chauhan, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The police have completed the investigation and filed the charge sheet before the Court. The status report mentions that the person shown in the CCTV footage could not be connected to the petitioner's photograph. There is insufficient material to connect the petitioner to the commission of the crime. The matter is listed for recording the statements of witnesses. No fruitful purpose would be served by detaining the petitioner in custody. The petitioner would abide by the terms and conditions that the Court may impose. Hence, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Pawan Kumar Nadda, learned Additional Advocate General for the respondent/State, submitted that the petitioner 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 established any change in the

circumstances, and he is not entitled to bail. 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. 1169 of 2026 and was dismissed on 24.07.2026. 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 observed:

“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 petition 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. It was submitted that a charge sheet has been filed, and this is a change in circumstances. This submission cannot be accepted. It was laid down by the Hon’ble Supreme Court in *Virupakshappa Gouda v. State of Karnataka*, (2017) 5 SCC 406; (2017) 2 SCC (Cri) 542: 2017 SCC OnLine SC 295 that the filing of a charge sheet does not amount to a change in circumstances. It was observed:

“12. On a perusal of the order passed by the learned trial Judge, we find that he has been swayed by the fact that when a charge sheet is filed, it amounts to a change of circumstance. Needless to say, the filing of the charge sheet does not in any manner lessen the allegations made by the prosecution. On the contrary, filing of the charge sheet establishes that after due investigation, the investigating agency, having found materials, has placed the charge sheet for the trial of the accused persons.”

15. Thus, the petitioner cannot claim bail on the ground that the charge sheet has been filed.

16. It was submitted that the petitioner had earlier lodged an FIR No. 949 of 2026 regarding the same incident. This FIR will not assist the petitioner because it establishes the petitioner's presence on the spot and that he had caused injuries to the assailant. The burden of proving that the injuries were caused in the exercise of the right of private defence is upon the petitioner as per Section 108 of Bhartiya Sakshya Sanhita, 2003.

17. It was submitted that the person shown in the CCTV footage is not connected to the petitioner's photograph as per the result of the analysis and there is no material to connect the petitioner to the commission of the crime. This submission cannot be accepted. The CCTV footage is additional evidence collected by the police. The police are relying upon the statements of the witnesses, in which it was specifically mentioned that the petitioner had inflicted a blow to Prem Sagar. Thus, the mere fact that the report of the analysis does not show that the person mentioned in the CCTV footage could not be connected to the petitioner's photograph will not help him.

18. It was submitted that the investigation is complete and no fruitful purpose would be served by detaining the petitioner in

custody. This submission will not help the petitioner. The offence alleged against the petitioner is heinous and is severely punishable. Therefore, the petitioner cannot be released on bail simply because the police have filed the charge sheet before the Court.

19. No other point was urged.

20. In view of the above, the present petition fails and is dismissed.

21. The observation made hereinbefore shall remain confined to the disposal of the instant petition and will have no bearing, whatsoever, on the merits of the case.

(Rakesh Kainthla)
Judge

9th October, 2026
(Nikita)