IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No. 2207 of 2025
Reserved on: 13.10.2025.
Date of Decision: 17.10.2025

Aryan Mahajan ...Petitioner

Versus

State of Himachal Pradesh & other ...Respondent

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] No

For the Petitioner : Mr Divya Raj Singh Advocate.
For the Respondent/State : Mr Lokender Kutlehria, Additional Advocate General, with Inspector Dimple Kumari, Women Police Station, Dharamshala.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking bail in FIR No. 4 of 2023 dated 10.02.2023 registered at Women Police Station, Dharamshala for the commission of offences punishable under Sections 342, 354A, 354C, 363, 376 & 506 of Indian Penal Code (IPC), Sections 67A, 67B & 66E of Information Technology (IT) Act and Sections 6, 8, 10 and 12 of Protection of Children from Sexual Offences Act (in short 'POCSO Act').

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

2. It has been asserted that, as per the prosecution, the informant/victim made a complaint to the police that the petitioner's mother told her that the petitioner liked the victim and he wanted to marry her. The victim's parents told the petitioner's mother to wait 5-6 years for the marriage. This was accepted by both parties. The petitioner and the victim met in March 2022 for the first time, the victim accompanied the petitioner to Shimla, where the petitioner raped her and recorded the incident. The petitioner sent the video to Bharat Bhushan. The Police registered the F.I.R. Petitioner and the victim love each other, and their relations were accepted by their families; however, the relationship got strained. The petitioner has been in judicial custody for more than two years and six months. The story projected by the victim does not inspire confidence. The petitioner had earlier filed a bail petition, which was registered as Cr.MP(M) No. 1210 of 2024, and was dismissed on 25.10.2024 by this Court. There is no progress in the trial. Hence, the present petition.

3. The petition is opposed by filing a status report asserting that the victim made a complaint to the police that her father received a call from the petitioner's mother, who revealed

that the petitioner liked the victim and wanted to marry her. The victim's parents replied that they did not want the victim to get married for 5-6 years. The petitioner's mother stated that she was ready to wait for 5-6 years. Parties started talking to each other on the telephone. Thereafter, they met in a rest house in March 2022. The victim was to go to Shimla to take some tests but her father fell ill. The petitioner volunteered to accompany the victim. The petitioner brought the vehicle of a friend and took her to Pathankot, from where they went to Shimla. The petitioner acted indecently with the victim, but the victim could not say anything due to shame. Petitioner's friend dropped them off at Pathankot. The petitioner rented a room in a hotel in Shimla. The petitioner and the victim stayed in the hotel on the 9th and 10th of April 2022. The petitioner raped her and prepared a video. He threatened the victim that he would make the video viral in case the incident was revealed to any person. He shared the photographs and video with Bharat Bhushan. When the victim's mother talked to the petitioner, the petitioner sent the photograph and the video to the victim's mother. The victim revealed the incident to her mother thereafter. The police registered the FIR and seized the mobile phones. The petitioner

was arrested. The photocopy of the record of hotel record was also seized. As per the report of the analysis, WhatsApp chat and screenshots were found in the data extracted from the mobile phone. Obscene images and videos were also found in the mobile phone of Bharat Bhushan, which were sent from the petitioner's mobile phone. The petitioner had used his social media account to send the photographs and videos through WhatsApp and Facebook. The challan has been filed before the Court. The statements of prosecution witnesses have been recorded, and now the statements of prosecution witnesses mentioned in the supplementary challan are to be recorded on 27.10.2025. Hence, the status report.

4. I have heard Mr Divya Raj Singh, learned counsel for the petitioner and Mr Lokender Kutlehria, learned Additional Advocate General, for the respondent/State.

5. Mr Divya Raj Singh, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The prosecution was unable to complete the evidence within a period of two years. The petitioner's right to a speedy trial is being violated. Therefore, he prayed that the

present petition be allowed and the petitioner be released on bail.

6. Mr Lokender Kutlehria, learned Additional Advocate General, for the respondent/State, submitted that the petitioner is involved in the commission of a heinous offence. The petitioner had earlier filed a bail petition, which was dismissed by this Court and a subsequent bail petition only lies when there is a change in the circumstances. The statements of prosecution witnesses mentioned in the main challan have been recorded but the statements of prosecution mentioned in the supplementary charge-sheet are yet to be recorded. The trial is almost concluded. 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 record carefully.

8. It is undisputed that the petitioner had earlier filed a bail petition, which was registered as Cr.MP(M) No.1210 of 2024 and was dismissed on 25.10.2024 by this Court. It was held in ***State of Maharashtra Vs. Captain Buddhikota Subha Rao (1989) Suppl. 2 SCC 605,*** that 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 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 circumstance has no bearing on the salutary principle of judicial propriety that successive bail application needs 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 circumstance 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 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 circumstance 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. The petitioner asserted that the prosecution failed to complete the evidence, and the petitioner's right to a speedy trial was being violated. This submission is not acceptable. The status report shows that statements of the prosecution witnesses cited in the main challan have been recorded, and the matter is listed for recording the statements of the prosecution witnesses mentioned in the supplementary charge-sheet. Therefore, the plea that the petitioner's right to a speedy trial is being violated and there is an inordinate delay in the progress of the trial cannot be accepted.

15. There is no other change in the circumstances, hence, the petitioner cannot be held entitled to bail at this stage, however, the petitioner is at liberty to approach this Court in

case the statements of the prosecution's witnesses mentioned in the supplementary challan are not recorded expeditiously.

16. Consequently, the present petition fails, and it is dismissed.

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

(Rakesh Kainthla)
Judge

17th October,2025
(ravinder)