IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 1955 of 2026
Reserved on: 27.10.2026
Date of Decision 30.10.2026

Kishore Sharma .... Petitioner

Versus

State of HP .... Respondent

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

For the Petitioner	:	Ms Swati Sharma, Legal Aid Counsel.
For the respondent/ State	:	Mr P.K. Nadda, Additional Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 131 of 2025, dated 19.05.2025, and registered at Police Station Sadar, District Mandi, H.P., for the commission of offences punishable under sections 109, 118(1) and 115(2) of Bharatiya Nyaya Sanhita (BNS) 2023.

2. It has been asserted that, as per the prosecution, the informant Komal and her husband Jatin were proceeding to Kullu

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

on 18.05.2025, when the petitioner, known to Jatin, called upon them and asked them to stay at his house. The petitioner demanded ₹5000/- from Jatin, who expressed his inability to pay the money. The petitioner inflicted injuries on Jatin's chest. Jatin shouted for help. The informant woke up. The petitioner inflicted injuries on the neck and leg of Jatin and fled away from the spot. Jatin was taken to the hospital. The police arrested the petitioner and seized the handle and blade of the knife and other articles. Human blood was detected on the bed-sheet, mattresses and other articles seized from the spot. The police filed the charge-sheet before the Court after completion of the investigation. The petitioner had earlier filed a bail petition which was registered as CrMP(M) No.3033 of 2025, and was dismissed by the Court. The petitioner has remained in custody for more than 14 months, and the trial has not concluded. No fruitful purpose would be served by detaining the petitioner in custody. 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 Komal and her husband Jatin were going to Kullu on 18.05.2025. Petitioner Kishore Kumar called Jatin and asked Jatin and the informant to stay with him. The informant

and Jatin went to the petitioner's house. The petitioner was intoxicated, and he demanded ₹ 5,000/- from Jatin. Jatin replied that he had no money. The informant, her husband and the petitioner slept. The petitioner woke up at 2:30 am and inflicted injuries on Jatin's chest. Jatin shouted for help. The informant woke up after hearing his cries. The petitioner again inflicted injuries with the knife on Jatin's neck and leg. The informant shouted for help, and the petitioner ran away. Jatin was taken to the Hospital. The police registered the FIR and investigated the matter. The police arrested the petitioner, and the petitioner made a disclosure statement leading to the recovery of the handle of the knife and his pants. Human blood was detected on the bed sheet, mattress, blood collected from the spot, T-shirt, a pair of chappals, and Jatin's lower body during the chemical analysis. Injuries were found on the person of Jatin, which could have been caused by means of a sharp-edged weapon like a knife. DNA analysis of the knife blade and plastic handle could not be conducted because the DNA had degraded. The police filed the charge-sheet before the Court. The prosecution has cited 18 witnesses, out of whom the statements of 12 witnesses have been

recorded, and the matter is listed for recording the statements of witnesses on 19.11.2026. Hence, the status report.

4. I have heard Ms Swati Sharma, learned Legal Aid Counsel for the petitioner, and Mr P.K. Nadda, learned Additional Advocate General for the respondent/State.

5. Ms Swati Sharma, learned Legal Aid Counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The Medical Officer has issued a final opinion stating that the injury sustained by the victim was simple in nature, and no case for the commission of an offence punishable under section 109 of BNS is made out against the petitioner. The police have filed the charge-sheet before the Court, and no fruitful purpose would be served by detaining the petitioner in custody. The prosecution has failed to complete the evidence, which violates the petitioner's right to speedy trial. Hence, she 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 had earlier filed a bail petition, which was dismissed by this Court, and a

subsequent bail petition lies only when there is a change in the circumstances. The petitioner has failed to establish any change in the circumstances and the present petition is not maintainable. Statements of 12 witnesses have been recorded, and the matter is listed for recording the statements of prosecution witnesses on 19th November 2026. There is no delay in the progress of the trial. 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. 3033 of 2025 and was dismissed on 23rd January 2026. It was rightly submitted on behalf of the State that a subsequent bail petition lies only when there is a change in the circumstances. It was held in ***State of Maharashtra. 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 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. It was submitted that the petitioner is not involved in the commission of an offence punishable under Section 109 of the BNS. This submission will not help the petitioner. The Court had found while deciding the earlier bail petition that there was sufficient material on record to prima facie connect the petitioner

with the commission of an offence punishable under Section 109 of the BNS. It was laid down by the Hon'ble Supreme Court in ***State of M.P. v. Kajad, (2001) 7 SCC 673; 2001 SCC (Cri) 1520; 2001 SCC OnLine SC 1070,*** that it is impermissible to review the earlier order of bail in the subsequent bail petition, and the Court can only consider the change in circumstances. It was observed at page 676:

> **8.** It has further to be noted that the factum of the rejection of his earlier bail application bearing Miscellaneous Case No. 2052 of 2000 on 5-6-2000 has not been denied by the respondent. Successive bail applications are indeed permissible under the changed circumstances. But without the change in the circumstances, the second application would be deemed to be seeking a review of the earlier judgment, which is not permissible under criminal law, as has been held by this Court in ***Hari Singh Mann v. Harbhajan Singh Bajwa [(2001) 1 SCC 169: 2001 SCC (Cri) 113]*** and various other judgments.

14. Thus, the submission that no case is made out against the petitioner cannot be accepted.

15. It was submitted that the prosecution has failed to complete the evidence and the petitioner's right to speedy trial is being violated. This submission is only stated to be rejected. The order sheet shows that the statements of 12 witnesses have been

recorded and the matter is listed on 19th November, 2026, for recording the statements of prosecution witnesses. The recording of statements of 12 witnesses within a period of two years does not show any delay in the progress of the trial. The petitioner has not filed the copies of the order sheets to demonstrate that the delay is attributable to the prosecution or the Court; hence, he cannot be held entitled to bail on the ground that his right to speedy trial is being violated.

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

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

(Rakesh Kainthla)
Judge.

30th October, 2026.
(Ravinder)