IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 2111 of 2026
Reserved on: 20.11.2026
Date of Decision: ___.11.2026.

Salman .... Petitioner

Versus

State of HP .... Respondent

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

For the Petitioner : Mr Munish Datwalia, Advocate
For the Respondent/State : Mr Jitender Sharma, Additional Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking regular bail in FIR No. 54 of 2025, dated 11.5.2025, registered at Police Station BSL Colony, Sundernagar, District Mandi, H.P., for the commission of offences punishable under Sections 309(6), 333, 127(2), 351, 115(2), 61(2), 24 (a) of Bharatiya Nayaya Sanhita, 2023 (BNS) and Sections 25 and 27 of the Indian Arms Act.

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

2026:HHC:50811

2. It has been asserted that, as per the prosecution, three masked persons entered the house of informant Naresh Kumar and committed robbery after threatening the family members with a knife on 11.05.2025. The petitioner was implicated on the allegation that he was associated with the co-accused and was involved in a conspiracy. The petitioner had not entered the informant's house and committed the actual robbery. The allegations against him are based on his association with the co-accused, conspiracy, mobile location, call records, and recoveries. The investigation has been completed, and trial is pending before the competent Court. The petitioner's custodial interrogation is not required, and no fruitful purpose would be served by detaining the petitioner in custody. The petitioner had earlier approached this Court by filing a bail petition, which was registered as Cr. M.P.(M) No. 3070 of 2025 and was dismissed on 16.03.2026. The statements of material witnesses have been recorded. The petitioner has remained in custody for nearly 17 months. The petitioner's minor child is suffering from a skin ailment, and his continued absence has caused hardship to the family. The petitioner is a permanent resident of District Muzaffanagar,U.P. and there is no chance of his absconding. He

2026:HHC:50811

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 Naresh Kumar, his wife Sharda Devi, his mother and his children were present in their home on 11.5.2025 at about 2.00 PM. Three masked persons entered the house and threatened them with a knife. They demanded the mobile phones of the informant and his wife. They took away ₹80,000-90,000/- and jewellery with them. The matter was reported to the police, and the police investigated it. The police checked the CCTV footage and found that the vehicle bearing registration No. HP-28A-6631 was moving around the informant's house suspiciously. This motorcycle was found to be stolen from Mandi on 10.5.2025. Subsequently, the motorcycle was seen going towards Pungh on 11.5.2025 in the CCTV footage.

4. The police of Police Station Jaansath, District Muzaffarnagar, U.P. found four persons who were conspiring to loot on 12.5.2025. They apprehended Javed, son of Khaleel and Javed alias Sablu, son of Irshad. The police recovered the firearms

2026:HHC:50811

from their possession. The police also recovered motorcycles bearing registration No. UP-20S-5189, DL-13SJ-1954, UP-12V-2096 and UP-12G-6172. The motorcycle bearing registration No. UP-20S-5189 was originally allotted registration No. HP-28A-6631. Similarly, the registration numbers of other motorcycles were found to be different. The police apprehended Shahid on 13.5.2025 and recovered firearms from his possession. The police arrested Sartaj alias Bhura and Salman (the petitioner). The police recovered firearms, jewellery and a motorcycle bearing registration No. UP-11C-3692 from their possession. Himachal Police brought the jewellery to Mandi, and it was identified by the informant. The petitioner was found in touch with the co-accused, and the location of his mobile phone was found to be in Himachal Pradesh at the time of the incident. Sartaj made a disclosure statement leading to the recovery of the knife, which was used to threaten the informant. Sartaj, Javed, Shahid and the motorcycle could be seen in CCTV footage. The charge-sheet was filed before the Court, and the matter is listed for recording the statements of prosecution witnesses on 27.11.2026. The prosecution has cited 34 witnesses, out of whom the statements of 10 witnesses have been recorded, and one witness has expired.

2026:HHC:50811

The petitioner would indulge in the commission of a similar offence in case of his release on bail. Hence, it was prayed that the present petition be dismissed.

5. I have heard Mr Munish Daatwalia, learned counsel for the petitioner, and Mr Jitender Sharma, learned Additional Advocate General, for the respondent State.

6. Mr Munish Daatwalia, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. As per the prosecution, he had entered into a conspiracy with the co-accused and had no direct involvement in the commission of the crime. The petitioner has remained in custody for more than 17 months, and the prosecution has failed to complete the evidence, which violates the petitioner's right to a speedy trial. 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.

7. Mr Jitender Sharma, learned Additional Advocate General, for the respondent State, submitted that the petitioner had earlier filed a bail petition which was dismissed by this Court.

2026:HHC:50811

A subsequent bail petition lies only when there is a change in the circumstances. The petitioner has failed to show any change in the circumstances, and he is not entitled to bail. Hence, he prayed that the present petition be dismissed.

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

9. It is undisputed that the petitioner had earlier filed a bail petition which was registered as Cr. M.P.(M) No. 3070 of 2025 and was dismissed on 16.03.2026. 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

2026:HHC:50811

> 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.

10. 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."

11. 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

2026:HHC:50811

> 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.

12. 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.

13. 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

2026:HHC:50811

> 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."

14. It was submitted that the petitioner is not involved in the commission of the offence, and he was only cited as a conspirator. This submission will not help the petitioner. This Court had held earlier, while deciding the earlier bail petition, that there was sufficient material to, *prima facie*, show the

2026:HHC:50811

petitioner's involvement in the commission of the crime. It is impermissible for this Court to review the finding recorded by the Court earlier while exercising jurisdiction to grant a subsequent bail petition. 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.

15. It was submitted that the prosecution has not completed the evidence and the petitioner is entitled to bail. This submission will not help the petitioner. The status report mentions that the prosecution has examined 10 witnesses, and one witness has died. The examination of 10 witnesses within one year does not show any delay in the progress of the trial. The

2026:HHC:50811

petitioner has also not filed the order sheets to demonstrate that the delay is attributable to the prosecution or the Court. Hence, the petitioner cannot be held entitled to bail on the ground of the delay.

16. Therefore, the submission made on behalf of the State has to be accepted as correct that there is no change in the circumstances justifying the grant of bail to the petitioner. Hence, 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

25th November, 2026
(Ravinder)