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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 2159 of 2026
Reserved on: 06.11.2026
Date of Decision: 18.11.2026.

Mehboob ....Petitioner

Versus

State of HP .... 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 Ajit Sharma, Deputy Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 264 of 2025, dated 30.10.2025, registered at Police Station Sadar Chamba, District Chamba, H.P., for the commission of offences punishable under Section 20 of the Narcotic Drugs and Psychotropic Substances Act (NDPS).

2. It has been asserted that, as per the prosecution, the police saw the petitioner on 30.10.2025, at about 6.50 PM near

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

Cafe Ravi View, Chamba. The petitioner took something out of his pocket and threw it after seeing the police. The police apprehended the petitioner, and he identified himself as Mehboob Khan. The police checked the packet and found 155 grams of charas in it. The petitioner has nothing to do with the commission of a crime. He is a permanent resident of Chamba, and there is no chance of his absconding. The petitioner would abide by the terms and conditions that the Court may impose. FIR No. 2 of 2018 was registered against the petitioner at Police Station Nurpur, District Kangra, HP and the petitioner was fined in that case. The petitioner had earlier filed a bail petition before this Court, which was registered as Cr.MP(M) No. 38 of 2026 and was dismissed on 12.03.2026. The witnesses have not supported the prosecution's version. The police have filed the charge sheet before the Court, and 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, 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 police were on patrolling duty on 30.10.2025 at

6.40 PM. They met Harsh on the way. HC Sanjay Singh was speaking with Harsh when they saw the petitioner. He took out a polythene bag from his right pocket, threw it under the bench, and tried to leave the spot. The police apprehended the petitioner, and he revealed his name as Mehboob Khan. The police checked the packet and found 155 grams of charas in it. The police apprehended the petitioner and seized the charas. The charas was sent to SFSL, and it was found to be an extract of cannabis and a sample of charas after the analysis. The police filed the charge sheet before the Court. The petitioner was involved in FIR No. 02 of 2018, dated 3.1.2018, for the commission of an offence punishable under Section 20 of the NDPS Act, which was compounded by the learned Chief Judicial Magistrate, Kangra at Dharamshala, on 07.10.2026. Prosecution has cited 18 witnesses, out of whom 1 witness has been examined and the matter is listed before the learned Trial Court with effect from 18.11.2026 till 26.11.2026. The petitioner has committed a heinous offence which severely impacts the fabric of society. The petitioner would indulge in a similar offence, and he would influence the witnesses if released on bail. Hence, it was prayed that the present petition be dismissed.

4. I have heard Mr Divya Raj Singh, learned counsel for the petitioner and Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State.

5. Mr Divya Raj Singh, learned counsel for the petitioner, submitted that the petitioner had earlier approached this Court, but his bail petition was dismissed on the ground that he has criminal antecedents. The earlier FIR has been compounded. The petitioner was found in possession of 155 grams of charas as per the prosecution, and the petitioner has remained in custody for more than 1 year. He has undergone a substantial part of the imprisonment that can be awarded to him. The prosecution has not completed the evidence, and the petitioner's right to speedy trial is being violated. Therefore, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State, submitted that the petitioner was found in possession of 155 grams of charas, which is a huge quantity. The petitioner had earlier filed two bail petitions before this Court, but they were dismissed. The subsequent bail petition lies only

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when there is a change in the circumstances. The petitioner has not made out any case of change of circumstances and 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 two bail petitions which were registered as Cr.MP(M) No. 38 of 2026 and 1256 of 2026, and were dismissed on 12.03.2026 and 03.08.2026. It was laid down in the ***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 a 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, it was essential for the petitioner to plead and establish that there is a change in the circumstances.

14. It was submitted that the petitioner has remained in custody for more than 1 year and the prosecution has failed to complete the evidence. The petitioner has undergone a substantial part of imprisonment that can be awarded to him,

and his further custody is not justified. This submission has to be accepted as correct. The status report shows that the prosecution has cited 18 witnesses, out of whom 1 witness has been examined and 1 witness has been given up. The matter is listed before the learned Trial Court in November, 2026. The Central Government has specified 1 kg of charas as the commercial quantity. As per the status report, the petitioner was found in possession of 155 grams of charas. Therefore, if the principle of proportionality is applied to the present case, the petitioner has undergone a substantial part of the imprisonment that can be awarded to him in case of his conviction, and his further detention in these circumstances would not be justified.

15. It is undisputed that the police have filed the charge sheet before the Court and the matter is pending before the learned Trial Court, which means that the petitioner's custodial interrogation is not required. Therefore, no fruitful purpose would be served by detaining the petitioner in custody.

16. The petitioner was found in possession of 155 grams of charas, which is an intermediate quantity, and the rigours of

Section 37 of the NDPS Act do not apply to the present case. Thus, the petitioner can be released on bail.

17. The petitioner asserted that he is a permanent resident of District Chamba, which was not stated to be incorrect in the status report, which means that the petitioner has roots in the society and there is no chance of his absconding or not attending the trial, if released on bail.

18. In view of the above, the present petition is allowed, and the petitioner is ordered to be released on bail subject to his furnishing bail bond in the sum of ₹1,00,000/- with one surety in the like amount to the satisfaction of the learned Trial Court. While on bail, the petitioner will abide by the following conditions: -

(i) The petitioner will not intimidate the witnesses, nor will he influence any evidence in any manner whatsoever.

(ii) The petitioner shall attend the trial on each and every hearing and will not seek unnecessary adjournments.

(iii) The petitioner will not leave the present address 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.

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(iv) The petitioner will surrender his passport, if any, to the Court; and

(v) The petitioner will furnish his 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 petition stands accordingly disposed of. A copy of this order be sent to the Jail Superintendent, District Jail, Chamba, H.P. and the learned Trial Court by FASTER.

21. 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

18th November, 2026
(Nikita)

NIKITA THAKUR Digitally signed by NIKITA THAKUR
Date: 2026.11.18 15:06:55 +0000