



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 745 of 2026

Reserved on: 14.5.2026

Date of Decision: 27.5.2026.

Devi Singh

... Petitioner

Versus

State of HP

... Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

For the Petitioner : Ms. Kanta Thakur, Advocate.

For the Respondent/State : Mr. Jitender Sharma,
Additional Advocate General,
assisted by L/ASI Kamlesh, IO,
WPS Baddi, District Solan, H.P.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking regular bail in FIR No. 18 of 2025, dated 6.4.2025, for the commission of offences punishable under Section 65(2) of Bharatiya Nyaya Sanita, 2023 (BNS) and Section 6 of the Protection of Children from Sexual Offences Act (POCSO) at Women Police Station, Baddi, District Solan, H.P.

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



2. It has been asserted that the petitioner has been falsely implicated. The police have completed the investigation, and the petitioner is not required to undergo interrogation. The police have filed the charge sheet before the Court, and the matter is pending in the Court of learned Additional Sessions Judge, (Fast Track) Special Court (POCSO), Solan, H.P. The matter is listed for recording the statements of prosecution witnesses on 29.6.2026 and 30.6.2026. The petitioner had earlier filed a bail petition before this Court, which was dismissed on 23.1.2026. The circumstances have changed since the dismissal of the earlier bail petition, because the charges have been framed, and only two witnesses out of 29 cited by the prosecution have been examined. There is a delay in the progress of the trial. The petitioner is an aged person of 62 years, and he was falsely implicated. 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 her husband used to leave the victim with their neighbour while going to their work. She left



the victim with her neighbour on 05.04.2025. The victim revealed on 06.04.2025 that the petitioner used to digitally penetrate her. The informant went to her neighbour's house and found the petitioner missing. She reported the matter to the Police. The Police registered the FIR and investigated the matter. The victim was born on 27.03.2022 and was aged 3 years and 10 days on the date of the incident. The victim was medically examined. The Police arrested the petitioner. The samples were sent to the FSL, but they were found to be negative for the presence of seminal stains or blood, and no DNA analysis was conducted. The charge-sheet was filed before the Learned Additional Sessions Judge, Fast Track, Special Court (POCSO), Solan, on 09.05.2025. The charges were framed on 11.09.2025. The matter is listed before the learned Trial Court for recording the statements of witnesses on 29.6.2026 and 30.6.2026. An FIR No. 4 of 1987, dated 27.1.1987, was registered against the petitioner, in which he was released on 9.10. 1987 for a period of one year on furnishing a bond for maintaining good conduct. He was also convicted in FIR No. 39 of 1992 by the learned CJM. FIR No. 193 of 2009, dated 27.10.2009, was registered against the petitioner, in which he



was acquitted by the learned Chief Judicial Magistrate, Shimla. Hence, the status report.

4. I have heard Ms Kanta Thakur, learned counsel for the petitioner and Mr Jitender Sharma, learned Additional Advocate General for the respondent/State.

5. Ms Kanta Thakur, learned counsel for the petitioner, submitted that the petitioner is innocent and was falsely implicated. The police have filed the charge sheet, and the matter was listed for recording the statements of prosecution witnesses. The prosecution has failed to produce the witnesses before the Court, and there is a delay in the progress of the trial. The petitioner's right to a speedy trial is being violated. Hence, she prayed that the present petition be allowed and the petitioner be released on bail.

6. 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. A subsequent bail petition only lies when there is a change in the circumstances. The circumstances have not changed since the dismissal of the earlier bail petition. The offence is heinous,



and the statement of the victim has not been recorded so far. The petitioner would intimidate the victim in case of his release on 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. 2529 of 2025 and was dismissed on 23.01.2026. It was held 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 circumstance 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 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 Court had noticed while deciding the earlier bail petition that there was sufficient material on record to *prima facie* show that the petitioner had digitally penetrated the victim, and he had violated the trust reposed by the informant by leaving the victim in his home. The nature of the offence was heinous,



and the petitioner was not entitled to bail. These circumstances have not changed.

15. It was submitted that there is a delay in the progress of the trial, and the petitioner's right to a speedy trial is being violated. This submission will not help the petitioner. Perusal of the photocopies of the order sheet shows that adjournment was sought by the learned counsel for the petitioner for checking the copies supplied to him on 16.6.2025, and it was reported on 18.6.2025 that copies were in order. The charges were framed on 11.9.2025, and thereafter the matter was listed for recording the statements of the prosecution witnesses. The fact that the charges could not be framed till 11.9.2025 because the learned counsel for the petitioner had sought time for checking the copies shows that the delay is also attributable to the petitioner.

16. The order sheets also show that the Court had not listed the matter on consecutive dates of hearing after 23.12.2025 and even on 29.6.2026. All the witnesses of the prosecution have not been summoned, which violates the directions issued by the Hon'ble Supreme Court of India in the *Central Bureau of Investigation Vs. Mir Usman @ Mir Usman Ali, Special Leave to*



appeal (Crl.) No. 969 of 2025 and reiterated by this Court vide letter dated 18/19th November, 2025. However, keeping in view the conduct of the petitioner and the fact that the victim has still not been examined, the petitioner is not entitled to bail at this stage.

17. Considering the gravity of the offence and the fact that the petitioner has access to the victim, the petitioner cannot be released on bail. Hence, the present petition is dismissed.

18. It is sincerely hoped that the learned Trial Court will adhere to the directions of the Hon'ble Supreme Court of India and this Court and conclude the trial expeditiously. In case of failure, the petitioner will have the right to file the bail petition.

19. The observation made herein before 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

27th May, 2026
(Chander)