



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 1918 of 2025

Reserved on: 09.10.2025

Date of Decision: 17.10.2025.

Gurvinder @ Vinder

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No

For the Petitioner : Mr K.S. Gill, Advocate.

For the Respondent : Mr Prashant Sent, Deputy Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking regular bail in FIR No. 46/2024, dated 10.04.2024, registered at Police Station Puruwala, District Sirmour, H.P., for the commission of offences punishable under Section 307, 452, 147, 148 and 149 of the Indian Penal Code (hereinafter referred to as IPC) and Section 25 of the Arms 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 petitioner Gurvinder @ Vinder, Inderjeet Singh @ Inder, Mukesh and Abdul Khalik and two other persons visited the informant's house on 10.04.2024 at about 10:30 a.m. Gurvinder @ Vinder and Inderjeet Singh shot at the informant, but he escaped. The other persons were armed with iron rods and pistols. Gurvinder @ Vinder also shot at Shweta Thakur, the informant's sister. The assailants ran away from the spot. Gurvinder @ Vinder used to visit Kiran, the informant's tenant. He had argued with Kiran on 09.04.2024, and the informant asked her to vacate the room. Gurvinder @ Vinder shot the informant because of this grudge. The police registered the FIR and investigated the matter. The bullet marks were found on the pillar. The petitioner is lodged in Model Central Jail, Nahan. He has no connection with the commission of the crime, and he was falsely implicated. Learned Additional Sessions Judge, Ponta Sahib, has released two accused on bail. Nobody received the injury. The grounds of arrest were not communicated to the petitioner, and the arrest of the petitioner is violative of Article 22 of the Constitution of India. The petitioner had earlier filed bail petitions, which were



registered as Cr.MP(M) No. 1197 of 2024, Cr.MP(M) No. 1831 of 2024 and Cr.MP(M) No. 2969 of 2024, which were dismissed on 21.06.2024, 18.09.2024 and 27.12.2024, respectively. The petitioner would abide by the terms and conditions which the Court may impose. Hence, the petition.

3. The petition is opposed by filing a status report asserting that the informant/victim made a complaint to the police stating that on 10.04.2014, he was present at his home. Petitioner, Gurvinder @ Vinder, Inderjeet @ Inder and two other persons came to his house. Gurvinder @ Vinder and Inderjeet @ Inder shot at the informant and his sister to kill them. The accused ran away from the spot after the shooting. The incident occurred because the petitioner, Gurvinder @ Vinder, knew the girl who was a tenant in the informant's house. The petitioner had quarrelled with her on 09.04.2023. The informant asked the tenant to vacate her room, after which the petitioner collected various persons and shot at the informant and his sister. The police registered the FIR and conducted the investigation. The police did not find any empty cartridges on the spot, but found residuals of the bullet in the last pillar. The informant and his



sister would have suffered a fatal injury from the gunshots fired at them. The police searched for the petitioner and other persons, who had absconded, and were apprehended on 13.04.2024. They were interrogated, and they made separate statements under Section 27 of the Indian Evidence Act that they could get the Katta recovered. They led the police and got recovered separate pistols (Kattas). The police prepared their sketches and seized them. The petitioner, Gurvinder also got recovered one motorcycle used by him during the incident. Nine FIRs have been registered against the petitioner, Gurvinder, and 3 FIRs have been registered against the Inderjeet Singh @ Inder. The petitioner is the leader of the gang and has used the weapons to intimidate the informant. He can commit a similar crime in case of his release on bail. The challan was presented in the Court of learned Additional Chief Judicial Magistrate, Court No.1, Paonta Sahib on 08.07.2024. The matter was listed before the learned Trial Court on 28.08.2024 and 29.08.2024 for recording the statements of prosecution witnesses. The petitioner would indulge in the commission of similar offence in case of his release on bail. Hence, it was prayed that the present petition be dismissed.



4. I have heard Mr K.S. Gill, learned counsel for the petitioner and Mr Prashant Sen, learned Deputy Advocate General for the respondent/State.

5. Mr K.S. Gill, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. No person was injured in the incident, and the police erred in adding Section 307 of the IPC. The prosecution has failed to complete the evidence, and the petitioner's right to a speedy trial is being violated. The grounds of arrest were not communicated to the petitioner, and the petitioner's arrest is illegal. Therefore, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Prashant Sen, learned Deputy Advocate General, for the respondent/state, submitted that the petitioner had earlier filed the bail petition, which was dismissed by the Court. A subsequent bail petition lies only when there is a change in the circumstances. The petitioner has not pleaded any change, and he 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 record carefully.

8. It is undisputed that the petitioner had earlier filed Cr. M.P. (M) No. 1197 of 2024, Cr.MP(M) No. 1831 of 2024 and Cr.MP(M) No. 2969 of 2024, which were dismissed on 21.06.2024, 18.09.2024 and 27.12.2024. It was held in *State of Maharashtra Vs. 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 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 not permissible to review the order passed by the Court.

14. It was submitted that the petitioner was not informed of the grounds of arrest, and his arrest is illegal. This submission will not help the petitioner. It was laid down by a Division Bench of Allahabad High Court in *Shashank Mishra versus State of U.P and others* 2025 SCC Online All 3189 that when the bail applications of the accused were rejected at multiple stages, his plea that the



grounds of arrest were not communicated to him cannot be accepted. It was observed: -

“11. Notwithstanding the above, it is pertinent to note that the petitioner has approached this Court nearly one and a half years after the arrest. During this intervening period, his bail applications were rejected at multiple stages, including by this Court. As such, the instant matter is distinguishable from *Manjeet Singh v. State of U.P.*, 2025 SCC OnLine All 2119 and *Sachin Soni v. State of U.P. Criminal Misc. WP No. 905 of 2025*, dt. 9-4-2025 (All). At no point prior to the present proceedings did the petitioner raise the issue of illegal arrest or violation of his constitutional rights. The legal position laid down in *Vihaan Kumar v. State of Haryana*, (2025) 5 SCC 799, cannot be stretched to imply that a litigant who remained silent throughout can, at any stage, invoke the extraordinary jurisdiction under Article 226 to challenge his remand. The same is reproduced herein below: (*Vihaan Kumar v. State of Haryana*, (2025) 5 SCC 799 SCC pp. 818-819, paras 26-26.6)

“26. Therefore, we conclude:

26.1. The requirement of informing a person arrested of the grounds of arrest is a mandatory requirement of Article 22(1).

26.2. The information on the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved.



26.3. When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the investigating officer/agency to prove compliance with the requirements of Article 22(1);

26.4. Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance with the requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge-sheet and trial. But, at the same time, the filing of a charge-sheet will not validate a breach of constitutional mandate under Article 22(1);

26.5. When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

26.6. When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.”

12. In clause (f) of the judgment in *Vihaan Kumar v. State of Haryana*, (2025) 5 SCC 799, the Supreme Court clearly



observed that release on the ground of violation of constitutional rights can be granted only if such violation is brought to the notice of the court by the accused or otherwise. In the case at hand, the record confirms that legal aid was offered to the petitioner, which he declined. He neither challenged his arrest earlier nor made any grievance during bail proceedings. The present petition appears to be a disguised attempt to secure release on grounds that were never taken or agitated before the appropriate forums.

13. This Court further notes that entertaining the present writ petition would effectively amount to nullifying the order passed by a Coordinate Bench of this Court on 15-4-2024, rejecting the petitioner's bail. Such an action is not legally permissible, as it would amount to reviewing the said order under the guise of fresh relief. The doctrine of merger, as expounded in *Shankar Ramchandra Abhyankar v. Krishnaji Dattatreya Bapat*, (1969) 2 SCC 74: AIR 1970 SC 1, is applicable. The remedy now sought is not distinct but is essentially a reiteration of the relief already denied. The same is extracted as below: (SCC p. 76, para 3)

“3. Now, as is well known, Section 115 of the Civil Procedure Code, 1908, empowers the High Court to call for the record of any case which has been decided by any court subordinate to it and in which no appeal lies to it. It can interfere if the subordinate court appears to have exercised the jurisdiction not vested in it by law or to have failed to exercise the jurisdiction so vested or to have acted in the exercise of its jurisdiction legally or with material illegality. The limits of the jurisdiction of the High Court under this section are well defined by a long course of judicial decisions. If the revisional jurisdiction is invoked and both parties are heard and an order is made, the question is whether the orders of the subordinate court have become merged in the order



of the High Court. If it has been merged and the order is only of the High Court, the order of the subordinate court cannot be challenged or attacked by another set of proceedings in the High Court, namely, by means of a petition under Article 226 or 227 of the Constitution. It is only if, by dismissal of the revision petition, the order of the subordinate court has not become merged in that of the High Court that it may be open to the party to invoke the extraordinary writ jurisdiction of that court. There again, the question will arise whether it would be right and proper for the High Court to interfere with an order of a subordinate court in a writ petition when a petition for revision under Section 115, CPC, against the same order has been dismissed. Such a consideration will also enter into the exercise of discretion in a petition under Article 225 or 227.”

14. A perusal of the said judgment is sufficient to cover this particular matter. Here, the bail application of the petitioner was rejected by the High Court. It is apparent that the grievance of illegal arrest was not raised either before the Sessions Judge or the High Court. The consequences which will follow if this writ petition is allowed were considered by us. Allowing this petition by setting the petitioner at liberty will result in upsetting the earlier order passed by another bench, vide which bail of the petitioner was rejected on merits. It will mean that the custody of the petitioner, which was earlier held legal by another bench, will be reviewed by this Bench after holding that the custody of the petitioner was illegal from the very beginning. Interpretation of what has been held in ***Vihaan Kumar v. State of Haryana***, (2025) 5 SCC 799 and other judgments referred above cannot be stretched so far. Allowing the writ petition will also mean directing the Additional District Court Fast Track to review its earlier order of bail rejection. Doctrine of merger, as held in ***Shankar Ramchandra Abhyankar v. Krishnaji Dattatreya***



Bapat, (1969) 2 SCC 74: AIR 1970 SC 1, is applicable here also. Bail rejected by the Sessions Judge was also rejected by the High Court. Allowing the writ petition will mean directing the Additional District Judge Fast Track Court to consider the application dated 29-4-2025 and indirectly asking to reconsider the bail application rejected by the High Court.” (emphasis supplied)

15. Therefore, the plea that the grounds of arrest were not communicated to the petitioner and the petitioner is entitled to bail cannot be considered in the present bail petition, when it was not taken in the earlier bail petitions.

16. The Court had specifically held while deciding the earlier bail petition bearing Cr.MP(M) No. 1831 of 2024, that there was sufficient material on the record to connect the petitioner with the commission of the crime. The plea that no injury was sustained and the offence punishable under Section 307 of the IPC was not made out was also considered and rejected. The court, considering the subsequent bail petition, does not sit in appeal over the earlier order declining the bail. 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. It is true that successive bail applications are permissible under the changed circumstances. But without the change in the circumstances, the second application would be deemed to be seeking 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.

17. Therefore, it is impermissible to review the earlier order passed by this Court.

18. It was submitted that the prosecution has failed to complete the evidence, and the petitioner's right to a speedy trial is being violated. This plea is not acceptable. A perusal of the certified copies of the order sheets maintained by the learned Trial Court shows that the time was sought for consideration of the charge on 19.11.2024, 19.12.2024 and 06.01.2025, and the charge was framed on 18.01.2025. One witness was examined on 12.03.2025, two witnesses each were examined on 28.07.2025, 29.07.2025 and 28.08.2025 and one witness was examined on 29.08.2025, which shows that the prosecution has examined 8



witnesses so far. The examination of 8 witnesses within a period of 7 months from the date of framing of the charge does not show any delay. Thus, the petitioner is not entitled to bail on the ground that there is a delay in the progress of the trial.

19. No other point was urged.

20. In view of the above, the petitioner is not entitled to bail; consequently, the present petition fails and the same is dismissed.

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

(Rakesh Kainthla)
Judge

17th October, 2025.
(Nikita)