



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP (M) Nos. 7 and 8 of 2026

Reserved on: 16.1.2026

Date of Decision: 23.1.2026.

1. Cr.MP(M) No. 7 of 2026

Nanak Dass

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

2. Cr.MP(M) No. 8 of 2026

Anshul Rana

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Vacation Judge.

Whether approved for reporting?¹ No

For the Petitioner(s) : Mr Peeyush Verma, Senior Advocate, with Mr Ajay Kumar, Advocate, in both the petitions.

For the Respondent/State : M/s Ajit Sharma and Prashant Sen, Deputy Advocates General, for the respondent-State, in both the petitions.

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

Rakesh Kainthla, Judge

The petitioners have filed the present petitions for seeking regular bail in F.I.R. No. 40 of 2025, dated 10.7.2025, registered at Police Station, Kumarsain, District Shimla, H.P., for the commission of offences punishable under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS). Since both the petitions have arisen out of the same FIR, they are being taken up together for disposal.

2. It has been asserted that the petitioners were arrested on 10.7.2025 by the police in the aforesaid FIR. The petitioners were innocent and had not committed any offence. No contraband was recovered from their conscious possession. The police recovered 6.02 grams of heroin, which is slightly above the small quantity and less than the commercial quantity. Hence, the rigours of Section 37 of the NDPS Act do not apply to the present case. The police have completed the investigation and filed the charge sheet before the Court. 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 petitions are opposed by filing a status report asserting that the police were on patrolling duty on 10.07.2025. They received secret information at about 5:45 P.M. that Anshul Rana was present in Room No. 501 at Hotel Royal Food Point, Shilaroo, and was selling heroin. A huge quantity of heroin could be recovered by his search. The police reduced the information into writing and sent it to the Supervisory Officer. The police associated Ajay Royal and Ajay Kumar and went to Room No.501. The petitioners, Nanak Dass and Anshul Rana, were found in the room. The police searched the room in their presence and in the presence of witnesses and recovered 6.02 grams of heroin. The police seized heroin and arrested the petitioners. The heroin was sent to SFSL, Junga and as per the report, it indicated the presence of Diacetylmorphine. The charge sheet was filed before the Court on 29.08.2025, and the matter is listed on 18.3.2026 for the consideration of the charge. Hence, the status report.

4. I have heard Mr Peeyush Verma, learned Senior Counsel, assisted by Mr Ajay Kumar, learned counsel for the petitioners and Mr Prashant Sen, learned Deputy Advocate General, for the respondent-State.

5. Mr Peeyush Verma, learned Senior Counsel for the petitioners, submitted that the petitioners are innocent and that they were falsely implicated. The quantity of heroin stated to have been recovered from the petitioners' possession is 6.02 grams, which is an intermediate quantity, and the rigours of Section 37 of the NDPS Act do not apply to the present case. The police have filed the charge sheet, and no fruitful purpose would be served by detaining the petitioners in custody. Hence, he prayed that the present petition be allowed and the petitioners be released on bail. He relied upon the judgment of *Anshul Rana Vs. State of H.P.* 2025:HHC:11014 in support of his submission.

6. Mr Prashant Sen, learned Deputy Advocate General, for the respondent-State, submitted that the petitioners had earlier approached this Court and their bail petitions were dismissed by this Court. A subsequent bail petition only lies when there is a change in the circumstances. There is no change in the circumstances in the present case. 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, Nanak Dass, had approached this Court and filed a bail petition, which was registered as Cr.MP(M) No. 2270 of 2025 and was dismissed on 14.10.2025. The petitioner, Anshul, had approached this Court by filing a bail petition, which was registered as Cr.MP(M) No. 2267 of 2025 and was dismissed on 15.10.2025. 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 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 recognized 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 on the basis of the change in the circumstances, and it is not permissible to review the order passed by the Court.

14. The Court had held in the earlier petition that the petitioners were *prima facie* in possession of 6.02 grams of heroin. The heroin was adversely affecting society. The petitioners had criminal antecedents, and the chances of the petitioners committing a similar offence in case of their release on bail could not be ruled out. These circumstances have not changed.

15. It was submitted that this Court had held in *Anshul Rana Vs. State 2025:HHC;11014* that there was no material to connect the petitioner with the commission of an organised crime under Section 111, and the petitioner was falsely implicated. This submission will not help the petitioner. The observations made by the Court were regarding the grant of bail and were tentative in nature, based upon the material placed before the Court. Therefore, petitioners cannot take any advantage of any observation made by the Court in the earlier petition.

16. No other point was urged.

17. In view of the above, the present petitions fail, and they are dismissed.

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

(Rakesh Kainthla)
Vacation Judge

23rd January, 2026
(Chander)