

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CrMP(M) No. : 1363 of 2026

Reserved on : 10.9.2026

Decided on : 11.9.2026

Uploaded on: 11.9.2026

Rishabh Jain

...Applicant

Versus

State of Himachal Pradesh

...Respondent

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?¹

For the applicant : Mr. Vikrant Thakur, Senior Advocate, assisted by Mr. Sative Chauhan, Advocate.

For the respondent : Mr. Tejasvi Sharma, Mr. H.S. Rawat, Additional Advocates General, assisted by SI Vijay Paul Singh, I.O., State CID Bharari.

Virender Singh, Judge

This order of mine shall dispose of the above-titled bail application, which has been filed by the applicant, under Section 483 of the Bharatiya Nagarik

¹ *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

Suraksha Sanhita, 2023 (hereinafter referred to as the 'BNSS'), for releasing them, on bail, during the pendency of trial, in case **FIR No.125 of 2023, dated 15.09.2023** (hereinafter referred to as the '**FIR, in question**'), registered under Sections 22, 25, 29 of the Narcotics Drugs and Psychotropic Substances Act (hereinafter referred to as 'the NDPS Act') and Sections 201, 465, 467 and 471 of the **Indian Penal Code** (hereinafter referred to as the '**IPC**'), with **Police Station, Gagret, District Una, H.P.**

2. According to the applicant, he is permanent resident of the address, as mentioned in the application and having deep roots in the society.

3. The applicant has further asserted that he has no role to play in the crime in question, in which, he has been arrested by the Police.

4. Investigation, in the present case, is stated to be complete and according to the application, Investigating agency could not collect any evidence, connecting him with the crime in question.

5. According to the further case of the applicant, he has been implicated in the present case, at the instance

of statement of co-accused, as such, the statement of the co-accused is not liable to be taken into consideration in view of decision of Hon'ble Supreme Court in a case titled as, 'Toofan Singh versus State of Tamilnadu, reported in 2021(4) SCC 1.

6. In addition to this, delay in trial has also been put forth, as a ground to release the applicant on bail, since the prosecution could not complete the trial, against him, in the present case, and till date, only eight witnesses could have been examined, by the prosecution.

7. Apart from this, the applicant has given the detail of the case, registered against him, by pleading that the FIR No. 382/2019, with Police Station Nabi Karim, Delhi, under Sections 376, 420 and 506 IPC, is pending against him.

8. On the basis of above facts, Mr. Vikrant Thakur, Senior Advocate, assisted by Mr. Sative Chauhan, Advocate has given certain undertakings, for which the applicant is ready to abide by, in case ordered to be released on bail.

9. On the basis of above facts, a prayer has been made to allow the application, as prayed for.

10. When, put to notice, police has filed the status report, disclosing therein that on 15.09.2023, at about 07:30 p.m., the I.O. was present on the gate of Shiv Bari temple. At that time, he received a secret information, with regard to indulgence of one Varinder Kumar @ Bindu, s/o Shri Vikram Chand, R/o ward No. 5, NAC Gagret, Tehsil Ghanari, District Una, in the business of selling the narcotic substance.

10.1. As per the information, a big haul of the medicines was being transported in Pick Up No.HP36-B-8124 to his residential house from Army Ground, Gagret. The said information was found to be authentic and reliable. It has also been informed that in case, the said vehicle is checked, large quantity of the narcotic substances, could be recovered.

10.2. It is the further case of the police that in case, the efforts to obtain the authorization letter/search warrant would have been made, in that eventuality, contraband could be removed. Thereafter, Drugs Inspector

Rajat Sharma was informed and asked to come near the Army Ground. Thereafter, the I.O. along with the police officials had proceeded towards the Army Ground, Gagret. The information under Section, 42(2) of the NDPS Act, was prepared and submitted to SDPO, Amb, through LHC Aruna Kumari, ANTF, Kangra. When, the I.O., along with police officials, reached outside the Army Ground, Gagret, at about 08:10 p.m, he noticed two persons, namely Avinash Bhardwaj and Kusum Lata, who is Vice-President of Nagar Panchayat, Gagret. Both of them were apprised about the secret information, as received by the I.O. and associated in the investigation of the case.

10.3. When, they entered the Army Ground, then, they noticed the aforesaid Pick Up, being driven by its driver, coming towards Army Ground. The I.O., with the help of other police officials, had stopped the said vehicle. In the meanwhile, Drugs Inspector Rajat Sharma also reached there, who was also associated in the investigation, in the presence of local witnesses. The I.O. has shown his identity card to both the persons, sitting in the vehicle. Thereafter, they were inquired about the white

plastic sack. Both of them had disclosed that this box (buitly) belongs to Varinder Kumar @Bindu, S/o Shri Vikram Chand. In the presence of these witnesses, both the said persons were directed to come out. Thereafter, a white coloured sack was opened and a cardboard box, containing 60 cardboard boxes were found in it, and in the other box, 59 cardboard boxes, were found. Drugs Inspector Rajat Sharma checked the aforesaid boxes, in the presence of the witnesses, and on opening the boxes, Capsules Paracetamol, Dicyclomine, Hydrocholride and Tramadol Hydrochloride capsules Proxywel spas were found. Total 14,400 capsules were found in the box, which has been marked as mark-I. In the other box, which has been marked as mark-2, 14,160 capsules were found. Thus, total 28,560 capsules were found.

10.4. On inquiry, the driver of the pick-up disclosed his name as Maan Singh, S/o Munna Ram, VPO Gagret, Tehsil Ghanari, District Una.

10.5. Other codal formalities were completed. Thereafter, ruqqa was prepared and submitted to Police Station, Gagret, for the registration of the FIR.

10.6. Initially, the investigation was conducted by the Additional S.P. Rajender Kumar and thereafter, the same was handed over to I.O./Inspector/Incharge, Police Station, Gagret, Sh. Sunny Guleria. Spot map was prepared. Accused Maan Singh and Mahasu Ram were enquired. Thereafter, the matter was inquired from Bhupender Dutta, S/o Sukhdev Chand Dutta, who was running a chemist shop in Gagret. He was also associated in the investigation. During investigation, accused Mahasu Ram disclosed that the photo of goods receipt of the parcel was forwarded to him by Varinder Kumar @Bindu, through WhatsApp, and he was directed to receive the said parcel from Kamal Transport, Gagret, and hand over the same to Varinder Kumar at his home.

10.7. On enquiry, Bhupender Dutta disclosed that the parcel containing contraband belong to Varinder Kumar @Bindu. However, the bill of the same was issued in the name of Dutta Medical Agency, Gagret. In lieu of the issuance of bill, Varinder Kumar @Bindu used to pay five boxes of Tramadol free of cost to him.

10.8. It is the further case of the police that a number

of persons were found involved in the case. Accused Varinder Singh (Bindu) was arrested on 15.09.2023 at about 10:30 p.m. All the four persons have been medico-legally examined. On 16.09.2023, they were produced before the Court of learned Chief Judicial Magistrate, Una, who had remanded them to Police custody, for three days.

10.9. On 16.09.2023, one Vishal Jaswal informed the police that one parcel in the name of Dutta Medical Agency has been received through Kamal Transport, upon which, Assistant Drugs Inspector Shashi Pal reached at the spot, where, the owner of Kamal Goods, through Vishal Jaswal, has produced one parcel, along with carbon copy of GR No.A59198, dated 14.09.2023, and one bill of Jan Priya Pharma, 27/16, Chhoti Sabzi Mandi, Janakpuri, New Delhi, to the police. Said bill was in the name of Dutta Medical Agency, Gagret. When, the said parcel was opened in the presence of witnesses, the same was found, containing 25,000 tablets of Tramadol Hydrochloride tablets 100 mg Clovedol 100 SR, which is a prohibited drug. The above medicines were taken into possession.

10.10. Thereafter, on 16.09.2023, the house of

Varinder Singh @Bindu was searched and during search, 210 boxes of liquor/beer were recovered. In this regard, FIR No.127 of 2023, dated 16.09.2023, under Section 39-A of the HP Excise Act was registered.

10.11. During investigation, mobile phones of accused, bearing Nos.9816042336, 8278733069, 8580581311, as well as, phone of accused Maan Singh, bearing No.9816503646 and of Bhupender Dutta, bearing No.9816956481, were taken into possession.

10.12. During investigation, it was found that according to GR No.A59051, dated 12.09.2023, and GR No.A59198, dated 14.09.2023, parcel received through Kamal Goods Carrier, Delhi, in the name of Dutta Medical Agency, Gagret, were forwarded by Jan Priya Pharma 27/16 Chhoti Sabzi Mandi, Janakpuri, New Delhi. However, when, the I.O. verified the said fact, it was found that the said bills were not issued by the said firm.

10.13. On 20.09.2023, shop of Bhupender Dutta was searched. During search, documents, pertaining to GR No.58021, dated 23.08.2023 and invoice No.00325, dated 23.03.2023, were found to be issued by Jan Priya Pharma

Company. However, as per these invoices, these medicines were not found in the medical store.

10.14. As per letter of the Director General of Police, Himachal Pradesh, dated 26.09.2023, investigation of the case was transferred to CID. Consequently, a Special Investigating Team, under the leadership of Praveen Dhiman, HPS, Additional S.P., Cyber Crime, was constituted. On 30.09.2023, the Special Investigation Team had taken over the investigation.

10.15. During investigation, it was found that recovered parcels, containing prohibited drugs were received at Jaswal Goods Carrier, Gagret, through Kamal Goods Carrier. It was also found that in the name of Dutta Medical Agency, other transports have also received consignment/parcels.

10.16. It was also found that Varinder Kumar was earlier running Chemist shop, under the name and style of 'Siddhi Vinayak', and now, he is running the same, under the name and style of 'M.B. Pharma'. In this regard, delivery register and challan forms were also obtained. On perusal of the same, it was found that through these

transports, consignment/parcels, worth crores of rupees, were found, in the name of Sidhi Vinayak, M.B. Medicine and Dutta Medical Agency.

10.17. The contraband, so recovered, was sent to SFSL, Junga. Weight of the parcel was found to be 15.681 kg. The said drug was found to be sample of Tramadol capsules. In addition to this, the weight of the parcels, which has been marked as mark-B, containing Clovedol 100 SR, was found to be 8.450 kg. Manufacturer of the same was found to be the Akums Drugs and Pharmaceuticals IIE SIDKUL Haridwar. Consequently, company officials of Pure & Cure Healthcare Pvt. Ltd., Plot No.26A, 27-30 Sector 8A, IIE SIDKUL, Haridwar were associated in the investigation. On enquiry, it was found that their company is the subsidiary of Akums Drugs & Pharmaceuticals Ltd. Company. The factory of batch No.P06CA09 was not found to have manufactured Proxywel Spas medicine.

10.18. As per the further stand of the police, from the recovered strips, eight digit number is found to be marked, which was 20130552. As per officials of the company,

number 20130552 was the unique number of their company, being packing material Artwork Code number. The company used to get printed lay out from UTS Foils and Packaging and Perfect Print Pack. Similarly, police has also got haul of Clovidol tablets. However, batch number was found to be erased. The other 8 digit number 20161349 was found to be printed on it. About this number, the company officials disclosed that this number is packing material Artwork Code number. The company used to get the said design Artwork from Shree Ji Enterprises.

10.19. During investigation, the I.O. also found that the applicant have smuggled the psychotropic substance from Jan Priya Pharma through Kamal Goods Transport. These parcels were not sent by Jan Priya Pharma, Delhi, nor, any invoice was found in their shop.

10.20. During investigation, it was found that on 14.09.2022, when, the police recovered the substance from vehicle No.HP36-B-8124, Varinder Kumar has forwarded GR No.59051, dated 12.09.2023 and GR No.A59198, dated 14.09.2023 to Mahasu Ram, on his phone, through

WhatsApp. Sahil Goswami directed Mahasu Ram to receive parcel bearing GR No.59051, dated 12.09.2023, and GR No.59198, dated 14.09.2023. In the mobile handset, which was taken into possession from Mahasu Ram, photos of aforesaid GR Nos were found, whereas, in the mobile phone, of the applicant, photographs of aforesaid GR Nos. were not found. Both these handsets and GR Nos. have been sent to RFSL, Dharamshala, for analysis.

10.21. During investigation, it was found that the handset, on which, Varinder Singh @Bindu on 14.09.2023, had forwarded the photographs of aforesaid GR Nos. were having two sim cards, bearing No.9816042336 and 8278733069. The IMEI number of these two slots were found to be 864372062985240 and 864372062985250, whereas, Varinder Singh @Bindu on 15.09.2023, produced the phone mark OPPO, bearing IMEI No.866114046756195 and 866114046756187.

10.22. According to the police, variation in these numbers was due to the fact that he used to conceal mobile handset for transporting the drugs through Mahasu Ram and produce some other mobile phones to the Police.

These facts have been highlighted to show that accused is very clever person and he may destroy the evidence. It was also found during investigation that mobile handset, with the help of which, Varinder Singh @ Bindu has forwarded the WhatsApp messages to Mahasu Ram, in that mobile handset, w.e.f. 15.09.2023 to 06.10.2023, mobile phones No.8627872324 and 7807786506 were found to be operating, whereas, according to customer application form, aforesaid mobile numbers were issued in the name of one Abhishek, s/o Ambika Prasad. Mobile No.7807786506 was found in the name of Nisha Devi wife of Tilak Raj.

10.23. On 15.10.2023, search warrant of house and shop of Sahil Goswami was obtained. During search, some objectionable documents were found and Indian currency of Rs.4,42,700/- and foreign currency of Rs.1,40,000/- was found. On inquiry, Meenakshi Sharma could not give satisfactory reply. However, she has produced empty box of OPPO, on which, IMEI 864372062985252 and 864372062985245 were found to be printed. It has also been found that Varinder Singh @Bindu, in the name of Dutta Medical Agency had transported the consignment

worth crores of Rupees from Jan Priya Pharma, between 2020 to 2023. These facts have been highlighted just to show that these are forged documents.

10.24. During investigation, Police also found that accused Varinder Singh @Bindu used to transport the drugs, worth crores of rupees, through 42 consignments, under the name of Dutta Medical Agency, Gagret, through Jan Priya Pharma 27/16, Chhoti Sabzi Mandi, Janakpuri, New Delhi. The invoice No. of all the 42 consignment was found to be 000325. This fact has been highlighted to show that the said bill was forged one.

10.25. The SIT agency, which has been constituted to investigate the case, has also perused the CCTV footage of 'Kamal Goods Carrier, Delhi' on 10.11.2023. On invoice, which was found on 14.09.2023, one person was found to have visited the office of Kamal Goods Carrier, Lahori Gate, Delhi. At the instance of one Onkar Upadhyay, he had booked one parcel, in the name of Dutta Medical Agency, Gagret, District Una. When, he was associated in the investigation, his statement, under Section 161 CrPC, was recorded. He has disclosed, in his statement, that owner of

JP International, applicant-Rishabh Jain has handed over one parcel, along with two invoices of Jan Priya Pharma, upon which, address of Dutta Medical Agency was given. All these articles, along with invoices, were handed over to Kaptaan Singh, who has booked the same for transportation with Kamal Goods Carrier, Lahori Gate, Delhi.

10.26. Thereafter, applicant-Rishabh Jain was also arrested. In his mobile phone, a picture of GR No.A 59198, dated 14.09.2023 and one invoice in the name of Jan Priya Pharma was found. Consequently, said applicant-Rishabh Jain was also arrested.

10.27. On 15.11.2023, his mobile phone and laptop were taken into possession. During investigation, said applicant-Rishabh Jain has disclosed that he used to send the consignment of drugs to Varinder Singh @Bindu, at the instance of Vishal Sharma. The modus operandi was to send the consignment and to forward the same to Jan Priya Pharma, in the name of Dutta Medical Agency, Gagret.

10.28. At the instance of Vishal Sharma, his friend

Sahil Goswami has also forwarded the consignment of narcotic drugs on 12.09.2023 to Varinder Singh @ Bindu, on the address of Dutta Medical Agency, Gagret, District Una. Search for Sahil Goswami was made on 25.11.2023.

10.29. Accused/applicant Rishabh Jain has purchased 50 boxes of Tramadol, for a sum of Rs.1,23,000/-. The said payment was made by applicant-Rishabh Jain, from his account, maintained in HDFC Bank.

10.30. It has also been mentioned in the status report that on the basis of CDR records, it was found that Sahil Goswami was in constant touch with Vishal Sharma, on mobile phone. According to the police, they had talked to each other on 43 occasions, between 01.10.2022 to 16.11.2023.

10.31. It is the further case of the police that when, Sahil Goswami joined the investigation, he was directed to produce the mobile phone, upon which, he has handed over Nokia mobile phone. However, when he was enquired about the phone, on which, he was using WhatsApp, then, he has produced one Samsung mobile phone.

10.32. On checking the IMEI number of the said Samsung mobile phone, the IMEI number of the phone, allegedly used by him, on 12.09.2023, was found to be different. On 18.12.2023, he has produced two mobile phones, but, both the mobile phones were not found to be working. As such, according to the police, IMEI of the said mobile phones could not be checked.

10.33. Another apprehension, which has been expressed in the status report, is that the quantity of contraband, recovered in the present case, is commercial quantity, and in case, the bail application is allowed, it will give a wrong signal to the society, and acceptance of the bail application will also encourage other persons to indulge in such type of activities.

10.34. Apart from this, it has also been apprehended that in case, the bail applications are allowed, the applicant may coerce the witnesses and may leave the country.

10.35. As per the status report, Crime Branch of State Intelligence Department has filed the chargesheet, against 8 accused namely Man Singh, Mahasu Ram, Bhupinder

Dutta, Virender Kumar @Bindu, applicant-Rishabh Jain, Mohammad Siraj, Sahil Goswami and Vishal Sharma, for being involved in the inter-state drug smuggling on fake invoices in the Court of learned Special Judge-I, Una, on 11.03.2024.

10.36 As per the prosecution story, there are total 82 witnesses, in the main challan and 44 witnesses in the supplementary challan, and out of above witnesses, the prosecution could only examine eight witnesses, and the case is now listed for recording the statements of PWs 1 and 2, on 30.9.2026.

11. On the basis of above facts, highlighting the seriousness of the crime, a prayer has been made to dismiss the application.

20. In this case, as per the charge sheet, filed against the applicant, copy of which has been annexed with the petition, the following role has been attributed to Rishabh Jain:

“a. Accused Rishabh Jain is the owner of M/S Shreejee Medicoes, a medicine shop located at 17/2 First & Second Floor, Khajoor Building, Bhagirath Palace, New Delhi, formerly known as J.P. International.

b. A photo of Invoice no. 00325 dated 14/12/2021 from Jan Priya Pharma, located at 27/16 Choti Sabzi Mandi, Janakpuri, New Delhi, was found on the mobile phone of accused Rishabh Jain. This photo was also recovered from Rishabh Jain's aforementioned mobile phone by the Regional Forensic Science Laboratory, Dharamshala.

c. A photo of the bill from Kamal Goods Carriers, with GR No. A 59198 dated 14-09-2023, was found on the mobile phone of accused Rishabh A Jain. This photo was also recovered from Rishabh Jain's mobile phone by the Regional Forensic Science Laboratory, Dharamshala.

d. On 14.09.2023, Rishabh Jain booked a parcel of intoxicating drugs for Gagret through the help of laborers in Delhi, using the invoice from Jan Priya Pharma. To authenticate this invoice, he forged his signature on it. Valid signatures of accused Rishabh Jain have been obtained from ICICI Bank, Delhi, and samples of these signatures have been submitted to the honorable CJM Court, Una. These samples have been sent to RFSL Dharamshala for comparison, but results are pending.

e. It has been found during the investigation that Rishabh Jain's medicine shop in Delhi is named Shreejee Medicose, located at 17/2, Khajoor Building, Bhagirath Palace, Chandni Chowk, Delhi-110006. However, the invoice through which he sent the aforementioned 25,000 CLOVIDOL 100 SR tablets to Gagret, Una, bears the name Y Invoice Jan Priya Pharma, 27/16 Choti Sabzi Mandi, Janakpuri, New Delhi 110058.

f. RFSL Dharamshala has also found three other GRs in accused Rishabh Jain's Redmi mobile phone, issued by Kamal Goods Carriers, with the numbers GR No. A 55946, GR No. 55870, and GR No. 56208. During the

investigation, the branch office records of Kamal Goods Carriers in Gagret were seized on 04.10.2023, revealing control over 82 GRs from November 2019 to September 2023, among which GR No. A 55946 and GR No. 55870 were also found.

g. Additionally, RFSL Dharamshala has also found other invoices from Jan Priya Pharma in Rishabh Jain's Redmi mobile phone.

h. Accused Rishabh Jain procured intoxicating drugs from Mohammad Shiraz in Muzaffarnagar. For this, Rishabh Jain made a payment of Rs. 1,23,000 to Mohammad Shiraz's bank account.

i. Accused Rishabh Jain has been in contact with other accused, Vishal Sharma and Mohammad Shiraz, through phone communication in connection with this allegation.”

21. Admittedly, the contraband, which has allegedly been recovered, in the present case, falls within the definition of ‘commercial quantity’. Once, this fact has been stated by the police in the status report, then, admittedly, rigors of Section 37 of the NDPS Act are applicable in the present case.

22. When, rigors of Section 37 of the NDPS Act are applicable, in that eventuality, before releasing the applicant, on bail, it is incumbent upon this Court to give findings, with regard to fulfilment of twin

conditions, as enumerated, under Section 37(1)(b)(ii) of the NDPS Act to the effect that the Court is satisfied that there are reasonable grounds for believing that (i) the applicant is not guilty of such offence; and (ii) that he is not likely to commit any offence, while on bail.

23. The provisions of Section 37 of the NDPS Act, have been discussed and explained by a three-Judge Bench of the Hon'ble Supreme Court, way back in the year 2004, in cases, titled as *Collector of Customs, New Delhi versus Ahmadalieva Nodira*, reported in (2004) 3 Supreme Court Cases 549, and *Narcotics Control Bureau versus Dilip Pralhad Namade*, reported in (2004) 3 Supreme Court Cases 619. The relevant paras 9 to 11 of the judgment in *Dilip Pralhad Namade's case (supra)*, are reproduced, as under:

“9. As observed by this Court in Union of India v. Thamisharasi & Ors. (JT 1995(4) SC 253) clause (b) of sub-section (1) of Section 37 imposes limitations on granting of bail in addition to those provided under the Code. The two limitations are (1) an opportunity to

the public prosecutor to oppose the bail application and (2) satisfaction of the Court that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail.

10. The limitations on granting of bail come in only when the question of granting bail arises on merits. Apart from the grant of opportunity to the public prosecutor, the other twin conditions which really have relevance so far the present accused respondent is concerned, are (1) the satisfaction of the Court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. The conditions are cumulative and not alternative. The satisfaction contemplated regarding the accused being not guilty has to be based for reasonable grounds. The expression "reasonable grounds" means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence and he is not likely to commit any offence while on bail. This nature of embargo seems

to have been envisaged keeping in view the deleterious nature of the offence, necessitates of public interest and the normal tendencies of the persons involved in such network to pursue their activities with greater vigour and make hay when, at large. In the case at hand the High Court seems to have completely overlooked the underlying object of Section 37 and transgressed the limitations statutorily imposed in allowing bail. It did not take note of the confessional statement recorded under Section 67 of the Act.

11. A bare reading of the impugned judgment shows that the scope and ambit of Section 37 of the NDPS Act was not kept in view by the High Court. Mere non-compliance of the order passed for supply of copies, if any, cannot as in the instant case entitle an accused to get bail notwithstanding prohibitions contained in Section 37.”

24. The term ‘reasonable’ has elaborately been discussed by the Hon’ble Supreme Court, in case, titled as ***Union of India versus Shiv Shanker Kesari***, reported in ***(2007) 7 Supreme Court Cases 798***. The relevant paras 8 to 11 of the judgment are reproduced, as under:

“8. The word "reasonable" has in law the prima

facie meaning of reasonable in regard to those circumstances of which the actor, called on to act reasonably, knows or ought to know. It is difficult to give an exact definition of the word "reasonable".

"7. ... In Strouds Judicial Dictionary, Fourth Edition, page 2258 states that it would be unreasonable to expect an exact definition of the word 'reasonable'. Reason varies in its conclusions according to the idiosyncrasy of the individual, and the times and circumstances in which he thinks. The reasoning which built up the old scholastic logic sounds now like the jingling of a child's toy.

(See: Municipal Corporation of Delhi v. M/s Jagan Nath Ashok Kumar and another (1987) 4 SCC 497. and Gujarat Water Supplies and Sewerage Board v. Unique Erectors (Gujarat) Pvt. Ltd. and another [(1989) 1 SCC 532].

9. "9. ...It is often said that "an attempt to give a specific meaning to the word "reasonable" is trying to count what is not number and measure what is not space". The author of Words and Phrases (Permanent Edition) has quoted from Nice & Schreiber 123 F. 987, 988 to give a plausible meaning for the said word. He says,

'the expression "reasonable" is a relative term, and the facts of the particular controversy must be considered before the question as to what constitutes reasonable can be determined'.

It is not meant to be expedient or convenient but certainly something more than that."

10. The word “reasonable” signifies “in accordance with reason”. In the ultimate analysis it is a question of fact, whether a particular act is reasonable or not depends on the circumstances in a given situation. (See: Municipal Corporation of Greater Mumbai and another v. Kamla Mills Ltd. (2003) 6 SCC 315).

11. The Court while considering the application for bail with reference to Section 37 of the Act is not called upon to record a finding of not guilty. It is for the limited purpose essentially confined to the question of releasing the accused on bail that the Court is called upon to see if there are reasonable grounds for believing that the accused is not guilty and records its satisfaction about the existence of such grounds. But the Court has not to consider the matter as if it is pronouncing a judgment of acquittal and recording a finding of not guilty.”

25. This view has again been reiterated by the Hon’ble Supreme Court in a latest decision, in case, titled as ***State of Kerala and others versus Rajesh and others***, reported in ***(2020) 12 Supreme Court Cases 122***. The relevant paras 18 to 21 of the judgment are reproduced, as under:

“18. This Court has laid down broad parameters to be followed while considering the application for bail moved by the accused

involved in offences under NDPS Act. In Union of India Vs. Ram Samujh and Ors. 1999(9) SCC 429, it has been elaborated as under:

*“7. It is to be borne in mind that the aforesaid legislative mandate is required to be adhered to and followed. It should be borne in mind that in a murder case, the accused commits murder of one or two persons, while those persons who are dealing in narcotic drugs are instrumental in causing death or in inflicting deathblow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely. Reason may be large stake and illegal profit involved. This Court, dealing with the contention with regard to punishment under the NDPS Act, has succinctly observed about the adverse effect of such activities in *Durand Didier v. Chief Secy., Union Territory of Goa* [(1990) 1 SCC 95] as under:*

‘24. With deep concern, we may point out that the organised activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic

substances into this country and illegal trafficking in such drugs and substances have led to drug addiction among a sizeable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years. Therefore, in order to effectively control and eradicate this proliferating and booming devastating menace, causing deleterious effects and deadly impact on the society as a whole, Parliament in its wisdom, has made effective provisions by introducing this Act 81 of 1985 specifying mandatory minimum imprisonment and fine.

8. To check the menace of dangerous drugs flooding the market, Parliament has provided that the person accused of offences under the NDPS Act should not be released on bail during trial unless the mandatory conditions provided in Section 37, namely,

(i) there are reasonable grounds for believing that the accused is not guilty of such offence; and

(ii) that he is not likely to commit any offence while on bail are satisfied. The High Court has not given any justifiable

reason for not abiding by the aforesaid mandate while ordering the release of the respondent-accused on bail. Instead of attempting to take a holistic view of the harmful socio-economic consequences and health hazards which would accompany trafficking illegally in dangerous drugs, the court should implement the law in the spirit with which Parliament, after due deliberation, has amended.”

19. The scheme of Section 37 reveals that the exercise of power to grant bail is not only subject to the limitations contained under Section 439 of the CrPC, but is also subject to the limitation placed by Section 37 which commences with non-obstante clause. The operative part of the said section is in the negative form prescribing the enlargement of bail to any person accused of commission of an offence under the Act, unless twin conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application; and the second, is that the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence. If either of these two conditions is not satisfied, the ban for granting bail operates.

20. The expression “reasonable grounds” means something more than *prima facie* grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. In the case on hand, the High Court seems to have completely overlooked the underlying object of Section 37 that in addition to the limitations provided under the CrPC, or any other law for the time being in force, regulating the grant of bail, its liberal approach in the matter of bail under the NDPS Act is indeed uncalled for.

21. We may further like to observe that the learned Single Judge has failed to record a finding mandated under Section 37 of the NDPS Act which is a *sine qua non* for granting bail to the accused under the NDPS Act.”

(self-emphasis supplied)

26. In another decision, in case, titled as ***Narcotics Control Bureau versus Mohit Aggarwal***, reported in ***AIR 2022 SC 3444***, the Hon’ble Supreme

Court has reiterated the earlier view regarding compliance of the conditions, as enumerated in Section 37 of the NDPS Act. The relevant paras 10 to 15 of the judgment are reproduced, as under:

“10. The provisions of Section 37 of the NDPS Act read as follows:

“[37. Offences to be cognizable and non-bailable.-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)-

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless-

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such

offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.

11. It is evident from a plain reading of the non obstante clause inserted in sub-section (1) and the conditions imposed in subsection (2) of Section 37 that there are certain restrictions placed on the power of the Court when granting bail to a person accused of having committed an offence under the NDPS Act. Not only are the limitations imposed under Section 439 of the Code of Criminal Procedure, 1973 to be kept in mind, the restrictions placed under clause (b) of sub-section (1) of Section 37 are also to be factored in. The conditions imposed in sub-section (1) of Section 37 is that (i) the Public Prosecutor ought to be given an opportunity to oppose the application moved by an accused person for release and (ii) if such an application is opposed, then the Court must be satisfied that there are reasonable grounds for believing that the

person accused is not guilty of such an offence. Additionally, the Court must be satisfied that the accused person is unlikely to commit any offence while on bail.

12. The expression “reasonable grounds” has come up for discussion in several rulings of this Court. In “Collector of Customs, New Delhi v. Ahmadalieva Nodira”, (2004) 3 SCC 549, a decision rendered by a Three Judges Bench of this Court, it has been held thus:

“7. The limitations on granting of bail come in only when the question of granting bail arises on merits. Apart from the grant of opportunity to the Public Prosecutor, the other twin conditions which really have relevance so far as the present accused respondent is concerned, are: the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. The conditions are cumulative and not alternative. The satisfaction contemplated

regarding the accused being not guilty has to be based on reasonable grounds. The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence.”

[emphasis added]

13. The expression “reasonable ground” came up for discussion in “State of Kerala and others Vs. Rajesh and others” (2020) 12 SCC 122 and this Court has observed as below:

“20. The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable

belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. In the case on hand, the High Court seems to have completely overlooked the underlying object of Section 37 that in addition to the limitations provided under the CrPC, or any other law for the time being in force, regulating the grant of bail, its liberal approach in the matter of bail under the NDPS Act is indeed uncalled for.”

[emphasis added]

14. To sum up, the expression “reasonable grounds” used in clause (b) of Sub-Section (1) of Section 37 would mean credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Dove-tailed with the aforesaid satisfaction is an additional consideration that the accused person is

unlikely to commit any offence while on bail.

15. We may clarify that at the stage of examining an application for bail in the context of the Section 37 of the Act, the Court is not required to record a finding that the accused person is not guilty. The Court is also not expected to weigh the evidence for arriving at a finding as to whether the accused has committed an offence under the NDPS Act or not. The entire exercise that the Court is expected to undertake at this stage is for the limited purpose of releasing him on bail. Thus, the focus is on the availability of reasonable grounds for believing that the accused is not guilty of the offences that he has been charged with and he is unlikely to commit an offence under the Act while on bail.”

27. In a recent decision of the Hon’ble Supreme Court in ***Criminal Appeal No.5544 of 2024***, titled as ***‘Narcotics Control Bureau versus Kashif, 2024(11) SCC-372***, wherein, it has been held that in case of commercial quantity of the contraband, the accused shall generally be not released on bail, until or unless, the conditions, as per Section 37 of the NDPS Act, are held to be existed in favour of the applicant. Relevant

paragraphs 8 and 39 of the said judgment are reproduced, as under:-

“8. There has been consistent and persistent view of this Court that in the NDPS cases, where the offence is punishable with minimum sentence of ten years, the accused shall generally be not released on bail. Negation of bail is the rule and its grant is an exception. While considering the application for bail, the court has to bear in mind the provisions of Section 37 of the NDPS Act, which are mandatory in nature. The recording of finding as mandated in Section 37 is a sine qua non for granting bail to the accused involved in the offences under the said Act. Apart from the granting opportunity of hearing to the Public Prosecutor, the other two conditions i.e., (i) the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that (ii) he is not likely to commit any offence while on bail, are the cumulative and not alternative conditions.

Xxx xxx xxx xxx

39. The upshot of the above discussion may be summarized as under:

(i) The provisions of NDPS Act are required

to be interpreted keeping in mind the scheme, object and purpose of the Act; as also the impact on the society as a whole. It has to be interpreted literally and not liberally, which may ultimately frustrate the object, purpose and Preamble of the Act.

(ii) While considering the application for bail, the Court must bear in mind the provisions of Section 37 of the NDPS Act which are mandatory in nature. Recording of findings as mandated in Section 37 is sine qua non is known for granting bail to the accused involved in the offences under the NDPS Act.

(iv) Sub-section (2) of Section 52A lays down the procedure as contemplated in sub-section (1) thereof, and any lapse or delayed compliance thereof would be merely a procedural irregularity which would neither entitle the accused to be released on bail nor would vitiate the trial on that ground alone.

(v) Any procedural irregularity or illegality found to have been committed in conducting the search and seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible. The Court

would have to consider all the circumstances and find out whether any serious prejudice has been caused to the accused.”

(self-emphasis supplied)

28. In the absence of fulfillment of the twin conditions, as enumerated, under Section 37(1)(b) of the NDPS Act, this Court cannot release the applicant, on bail, during the pendency of the trial.

29. So far as the delay in trial is concerned, considering the allegations levelled against the applicant, vis-a-vis, the larger interest of the society, this Court is of the view that at this stage, it cannot be stated that there is undue delay in trial.

30. Considering all these facts, no case is made out for releasing the applicant on bail, at this stage. Hence, the bail application is dismissed.

31. Any of the observations, made hereinabove, shall not be taken as an expression of opinion, on the merits of the case, as these observations, are

confined, only, to the disposal of the present bail application.

(Virender Singh)
Judge

September 11, 2025
(*kalpana*)