

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 1941 of 2026

Reserved on: 1.10.2026

Date of Decision: 9.10.2026.

Inderjit Singh Karori

.... Petitioner

Versus

State of HP

.... Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

For the Petitioner : M/s Gurnam Singh & Vidur
Kapoor, Advocates.

For the Respondent/State : Mr Pawan Kumar Nadda,
Additional Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking pre-arrest bail in FIR No. 49 of 2026, dated 31.07.2026, registered at Police Station Mehatpur, District Una, H.P., for the commission of offences punishable under Sections 15, 25, and 29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act).

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

2. It has been asserted that the petitioner apprehends his arrest in the aforesaid FIR based on a statement made by co-accused Avtar Singh alias Kaala. As per the prosecution, the police had intercepted a vehicle bearing registration No. PB-08-BW-9122 coming from Una on 30.07.2026 at about 1:10 PM. The police joined Iqbal Singh and inquired about the names of the occupants of the vehicle. They identified themselves as Joga Singh and Harpreet Singh. The police checked the vehicle and recovered 01 quintal 62 kilograms 640 grams of poppy husk. The police arrested the occupants of the vehicle and seized the poppy husk.

3. Avtar Singh made a statement during interrogation that he had purchased the bags from Inderjit Singh (the present petitioner) by making the payment in cash. These allegations are false. The petitioner is an innocent and illiterate person who sells buffalo milk on his bicycle. There is no other material connecting the petitioner to the commission of the crime. Harpreet was injured, and the petitioner had merely given a lift to Harpreet. The petitioner is ready and willing to join the investigation and 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 pre-arrest bail.

4. The petition is opposed by filing a status report asserting that the police had set up a *naka* on 30.07.2026. A vehicle bearing registration No. PB-08-BW-9122 came from Una. The police stopped the vehicle. A motorcycle reached the spot in the meantime. The police stopped the motorcyclist, and he identified himself as Iqbal Singh. The police joined Iqbal Singh as a witness and inquired about the names of the occupants of the vehicle, who identified themselves as Joga Singh and Harpreet Singh. The police checked the vehicle and recovered eight polythene containers containing 01 quintal 62 kg 640 grams of poppy husk.

5. Joga Singh revealed during interrogation that the poppy husk was brought from a tractor-trailer parked near the tube well of Avtar Singh. The police seized the poppy husk and arrested the occupants. The accused Joga and Harpreet led the police to the tube well of Avtar Singh and identified the place from where the poppy husk was loaded. The tractor was found parked on the spot. The police recovered 14½ plastic bags

weighing 02 quintals 90 kilograms and 20 grams of poppy husk. The police seized the poppy husk.

6. Harpreet Singh revealed during interrogation that he was sent by Inderjit Singh, the present petitioner, to purchase the poppy husk. Joga Singh also revealed that he was asked by the petitioner to bring the poppy husk. The police checked the call detail records (CDR) and found that Harpreet Singh and Inderjit Singh (the petitioner) were in touch with each other. Their location was found to be at the same place on 30.07.2026. The petitioner, Inderjit Singh, has absconded. As per the result of the analysis, the exhibits stated to be poppy straw were found to be samples of poppy straw. The police also checked the CCTV footage and found that the petitioner was present in the vehicle bearing registration No. PB-24E-5073, which was also registered in his name. The vehicle seized by the police was following the petitioner's vehicle. The petitioner is to be interrogated to determine the source and destination of the poppy straw. Hence, it was prayed that the present petition be dismissed.

7. I have heard M/s Gurnaam Singh and Mr Vidur Kapur, learned counsel for the petitioner, and Mr Pawan Kumar Nadda, learned Additional Advocate General, for the respondent/State.

8. Mr Gurnaam Singh, learned counsel for the petitioner, submitted that the petitioner is innocent and was falsely implicated. There is no material to connect the petitioner to the commission of the crime except the statement made by the co-accused, which is inadmissible in evidence. The petitioner would join the investigation and abide by the terms and conditions that the Court may impose. Hence, he prayed that the present petition be allowed and the petitioner be released on bail. He relied upon the judgment of *P. Krishna Mohan Reddy Vs. State of Andhra Pradesh, 2025 INSC 725* in support of his submissions.

9. Mr Pawan Kumar Nadda, learned Additional Advocate General for the respondent/State, submitted that the petitioner and co-accused Harpreet were seen together in the CCTV footage. They were also in touch with each other. The statement made by the co-accused is not admissible in evidence, but it furnishes a good ground for the police to further interrogate the petitioner. The petitioner has absconded, and his interrogation is not

possible without taking him into custody. A huge quantity of poppy husk was recovered, and its source and destination are to be ascertained. Hence, he prayed that the present petition be dismissed.

10. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

11. It was laid down by the Hon'ble Supreme Court in *P. Chidambaram v. Directorate of Enforcement*, (2019) 9 SCC 24: (2019) 3 SCC (Cri) 509: 2019 SCC OnLine SC 1143 that arrest is a part of the investigation procedure. The power of pre-arrest bail is extraordinary and should be sparingly exercised. It was observed:

“69. Ordinarily, an arrest is a part of the procedure of the investigation to secure not only the presence of the accused but also several other purposes. Power under Section 438 Cr.P.C. is an extraordinary power, and the same has to be exercised sparingly. The privilege of pre-arrest bail should be granted only in exceptional cases. The judicial discretion conferred upon the court has to be properly exercised after application of mind as to the nature and gravity of the accusation; the possibility of the applicant fleeing justice, and other factors to decide whether it is a fit case for the grant of anticipatory bail. Grant of anticipatory bail to some extent interferes with the sphere of investigation of an offence, and hence, the court must be circumspect while exercising such power for the grant of anticipatory bail. Anticipatory bail is not to be granted as a matter of rule, and it has to be granted only when the court is convinced that exceptional

circumstances exist to resort to that extraordinary remedy.”

12. This position was reiterated in *Srikant Upadhyay v. State of Bihar*, 2024 SCC OnLine SC 282, wherein it was held:

“25. We have already held that the power to grant anticipatory bail is extraordinary. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of the imagination, be said that anticipatory bail is the rule. It cannot be the rule, and the question of its grant should be left to the cautious and judicious discretion of the Court, depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious, as the grant of interim protection or protection to the accused in serious cases may lead to a miscarriage of justice and may hamper the investigation to a great extent, as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest, and we say that such orders shall be passed in eminently fit cases.”

13. It was held in *Pratibha Manchanda v. State of Haryana*, (2023) 8 SCC 181: 2023 SCC OnLine SC 785, that the Courts should balance individual rights, public interest and fair investigation while considering an application for pre-arrest bail. It was observed:

“21. The relief of anticipatory bail is aimed at safeguarding individual rights. While it serves as a crucial tool to prevent the misuse of the power of arrest and protects

innocent individuals from harassment, it also presents challenges in maintaining a delicate balance between individual rights and the interests of justice. The tightrope we must walk lies in striking a balance between safeguarding individual rights and protecting public interest. While the right to liberty and presumption of innocence are vital, the court must also consider the gravity of the offence, the impact on society, and the need for a fair and free investigation. The court's discretion in weighing these interests in the facts and circumstances of each case becomes crucial to ensure a just outcome.”

14. It was held in *Devinder Kumar Bansal v. State of Punjab*, (2025) 4 SCC 493: 2025 SCC OnLine SC 488 that pre-arrest bail can be granted in exceptional circumstances where the Court is of the view that the petitioner was falsely implicated in the case, and the presumption of innocence cannot be a reason to grant bail. It was observed on page 501:

“21. The parameters for the grant of anticipatory bail in a serious offence like corruption are required to be satisfied. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has been falsely implicated in the crime or the allegations are politically motivated or are frivolous. So far as the case at hand is concerned, it cannot be said that any exceptional circumstances have been made out by the petitioner-accused for the grant of anticipatory bail, and there is no frivolity in the prosecution.

22. In the aforesaid context, we may refer to a pronouncement in *CBI v. V. Vijay Sai Reddy*[*CBI v. V. Vijay Sai Reddy*, (2013) 7 SCC 452: (2013) 3 SCC (Cri) 563], wherein this Court expressed thus: (SCC p. 465, para 34)

“34. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words “reasonable grounds for believing” instead of “the evidence”, which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond a reasonable doubt.” (emphasis in original and supplied)

23. The presumption of innocence, by itself, cannot be the sole consideration for the grant of anticipatory bail. The presumption of innocence is one of the considerations that the court should keep in mind while considering the plea for anticipatory bail. The salutary rule is to balance the cause of the accused and the cause of public justice. Over-solicitous homage to the accused's liberty can, sometimes, defeat the cause of public justice.

15. The present petition has to be decided as per the parameters laid down by the Hon’ble Supreme Court.

16. The status report mentions that the co-accused had revealed during interrogation that the petitioner had asked them to bring the poppy husk. The police found the petitioner

and co-accused Harpreet in the CCTV footage, and Harpreet was in touch with the petitioner. The petitioner asserted in para-10 of his petition that Harpreet was injured, the petitioner gave him a lift, dropped him at the Himachal border, and returned to his house. Thus, the petitioner has not disputed that he was with Harpreet, one of the occupants of the vehicle from which the recovery was effected. It was laid down by the Hon'ble Supreme Court in *State of Karnataka vs Sadiq Pasha, 2026 INSC 1083*, that the disclosure made by the co-accused is material which the Investigating Officer could use to gather further evidence. It was laid down by the Hon'ble Supreme Court in *Union of India vs Khaliludeen, 2022 Supreme SC 1247*, that bail can be denied to the accused who was named by the co-accused. It was observed:

“8. The answer to said question could be the statement recorded by Md. Nizam Uddin. The statement of Md. Jakir Hussain, recorded under Section 67 of the Act, has also named his owner Abdul Hai. We are conscious of the fact that the validity and scope of such statements under Section 67 have been pronounced upon by this Court in *Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1*. In *State by (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta and Another, 2022 Live Law (SC) 69*, the rigour of law laid down by this Court in *Tofan Singh* was held to be applicable even at the stage of grant of bail.

9. However, going by the circumstances on record, at this stage, on the strength of the statement of Md. Nizam Uddin, though allegedly retracted later, the matter stands on a different footing. In our considered view, in the face of the mandate of Section 37 of the Act, the High Court could not and ought not to have released the accused on bail. We, therefore, allow these appeals, set aside the view taken by the High Court and direct that both the appellants be taken in custody forthwith”.

17. This position was reiterated in *Union of India v. Ajay Kumar Singh*, 2023 SCC OnLine SC 346, wherein it was held:

“11. The information revealed by the above two accused persons indicated that both of them knew the respondent-accused and that they had connived with him to transport the illicit ganja, and that they were in direct contact with the respondent-accused all through his mobile number. The facts as unfurled from the complaint/FIR and the statements of the above two accused persons recorded under Section 67 of the NDPS Act reveal that the respondent-accused is the kingpin and the organiser of the illicit trade in ganja.

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17. The quantity of “ganja” recovered is admittedly of commercial quantity. The High Court has not recorded any finding that the respondent-accused is not *prima facie* guilty of the offence alleged and that he is not likely to commit the same offence when enlarged on bail; rather, his antecedents are indicative that he is a regular offender. In the absence of a recording of such satisfaction by the court, we are of the opinion that the High Court manifestly erred in enlarging the respondent-accused on bail.

18. It was held by the Hon’ble Supreme Court in *State of Haryana v. Samarth Kumar*, 2022 SCC OnLine SC 2087, that the accused cannot be released on pre-arrest bail relying upon the

judgment in *Tofan Singh vs. State of Tamil Nadu*, (2021) 4 SCC 1. It was observed:

“4. The High Court decided to grant pre-arrest bail to the respondents on the only ground that no recovery was effected from the respondents and that they had been implicated only on the basis of the disclosure statement of the main accused, Dinesh Kumar. Therefore, reliance was placed by the High Court on the majority judgment of this Court in *Tofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1.

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8. In cases of this nature, the respondents may be able to take advantage of the decision in *Tofan Singh v. State of Tamil Nadu* (supra), perhaps at the time of arguing the regular bail application or at the time of final hearing after the conclusion of the trial.

9. To grant anticipatory bail in a case of this nature is not really warranted. Therefore, we are of the view that the High Court fell into an error in granting anticipatory bail to the respondents.” (Emphasis supplied)

19. These judgments were followed by this Court in *Rajesh Kumar v. State of H.P., Cr.MP(M) No. 458 of 2025, decided on 25.3.2025*, and it was held that pre-arrest bail can be denied to a person named by the co-accused to enable the police to interrogate the petitioner. An SLP No. 55547 of 2025 titled *Rajesh Kumar Vs. State of H.P.* against this order was withdrawn on 21.4.2025. It was held by this Court in *Jatinder Pal Singh vs. State of HP 2025:HHC:20446* that a person named by the co-accused is not entitled to pre-arrest bail. This order was upheld by the

Hon'ble Supreme Court in *Jatinder Pal Singh vs. State of HP, Petition for Special Leave to Appeal (Crl.) No. 9629/2025 decided on 10.07.2025.*

20. The judgment of the Hon'ble Supreme Court in *P. Krishna Mohan Reddy (supra)* does not apply to the present case because the prosecution is not relying upon the statement of the co-accused alone, but has other material to *prima facie* connect the petitioner to the commission of the crime.

21. The status report mentions that the petitioner is to be interrogated to know the source and the destination of the poppy straw. The petitioner is *prima facie* connected to the huge quantity of poppy straw recovered by the police. Therefore, the submission made in the status report that the petitioner's custodial interrogation is necessary to determine the source and destination of the opium poppy straw has to be accepted as correct. It was laid down by the Hon'ble Supreme Court in *State Versus Anil Sharma (1997) 7 SCC 187* that where custodial interrogation is required, pre-arrest bail should not be granted. It was observed:

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-

oriented than questioning a suspect who is well-ensconced with a favourable order under Section 438 of the Code. In a case like this, effective interrogation of a suspected person is of tremendous advantage in disinterring much useful information and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often, interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offender”

22 A similar view was taken by the Delhi High Court in *Mukesh Khurana v. State (NCT of Delhi)*, 2022 SCC OnLine Del 1032, wherein it was observed: -

“13. One of the significant factors in determining this question would be the need for custodial interrogation. Without a doubt, custodial interrogation is more effective to question a suspect. The cocoon of protection afforded by a bail order insulates the suspect, and he could thwart interrogation, reducing it to futile rituals. But it must also be kept in mind that while interrogation of a suspect is one of the basic and effective methods of crime solving, the liberty of an individual also needs to be balanced out.”

23. It was held in *P Chidambaram* (supra) that the grant of pre-arrest bail may hamper the investigations. It was observed:

“83. Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting useful information, and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences, would definitely hamper the effective investigation. Having regard to the materials said to have been collected by the respondent Enforcement Directorate and considering the stage of the investigation, we are of the view that it is not a fit case to grant anticipatory bail.”

24. No other point was urged.

25. In view of the above, the present petition fails and is accordingly dismissed.

26. The observation made hereinbefore 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

9th October, 2026
(Chander)