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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 2098 of 2025
Reserved on: 07.10.2025
Date of Decision: 27.10.2025.

Ugma Ram ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] ***No.***

For the Petitioner : M/s Yug Singhal & Hitender Verma, Advocates.

For the Respondent : Mr Ajit Sharma, Deputy Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking regular bail in FIR No. 96/2025, dated 28.07.2025, registered at Police Station Barotiwala, District Solan, H.P., for the commission of an offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act.

2. It has been asserted that the petitioner was arrested on 28.07.2025 for the possession of 7.033 kgs of poppy husk

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

recovered from his car. The petitioner is innocent, and he was falsely implicated. The petitioner has been in judicial custody since 28.07.2025. No recovery is to be effected from him. The quantity of Narcotics stated to have been found in possession of the petitioner is less than a commercial quantity, and the rigours of Section 37 of the ND&PS Act do not apply to the present case. The petitioner would abide by the terms and conditions which the Court may impose. Hence, it was prayed that the present petition be allowed and the petitioner be released on bail.

3. The petition is opposed by filing a status report asserting that the police were on patrolling duty on 28.07.2025. They received a secret information at around 3:20 p.m. at Jharmajri that a vehicle bearing registration No. HR-03U-8780 had opium poppy husk, and the petitioner, Ugma Ram, wanted to sell it. A huge quantity of opium poppy husk could be recovered by searching the vehicle. The police reduced the information into writing and sent it to the Additional Superintendent of Police, Baddi. The police associated Arun Kumar and Abhishek Sharma and went to the spot where the vehicle bearing registration No. HR03U-8780 was found parked. The driver identified himself as Ugma Ram. The police searched the vehicle after completing the

formalities and recovered three packets containing 3.009 kgs, 3.012 kgs and 1.012 kgs of opium poppy in them. Thus, a total of 7.033 kgs of opium poppy was recovered from the vehicle. The petitioner could not produce any document to possess the opium/poppy; hence, the police arrested the petitioner and seized the opium poppy. These were sent to SFSL, and as per the report of analysis, these were confirmed to be the samples of opium poppy straw. The petitioner would abscond and intimidate the witnesses in case of his release on bail. Hence, the status report.

4. I have heard M/s Yug Singhal and Hitender Verma, learned counsel for the petitioner and Mr Ajit Sharma, learned Deputy Advocate General, for the respondent/State.

5. Mr Yug Singhal, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The quantity of opium poppy recovered from the petitioner's possession is less than a commercial quantity, and the rigours of Section 37 of the ND&PS Act do not apply to the present case. The petitioner would abide by the terms and conditions which the Court may impose. Hence, he prayed that

the present petition be allowed and the petitioner be released on bail.

6. Mr Ajit Sharma, learned Deputy Advocate General, for the respondent/State, submitted that the petitioner is involved in the commission of a heinous offence. The petitioner would intimidate the witnesses and abscond in case of his release on bail; therefore, 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. The parameters for granting bail were considered by the Hon'ble Supreme Court in ***Pinki v. State of U.P., (2025) 7 SCC 314: 2025 SCC OnLine SC 781,*** wherein it was observed at page 380:

> **(*i*) *Broad principles for the grant of bail***
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> **56.** In ***Gudikanti Narasimhulu v. High Court of A.P., (1978) 1 SCC 240: 1978 SCC (Cri) 115***, Krishna Iyer, J., while elaborating on the content of Article 21 of the Constitution of India in the context of personal liberty of a person under trial, has laid down the key factors that should be considered while granting bail, which are extracted as under: (SCC p. 244, paras 7-9)
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> > "7. It is thus obvious that the nature of the charge is the vital factor, and the nature of the evidence is also pertinent. The punishment to which the party may be liable, if convicted or conviction is confirmed, also bears upon the issue.

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8. Another relevant factor is whether the course of justice would be thwarted by him who seeks the benignant jurisdiction of the Court to be freed for the time being. [***Patrick Devlin, "The Criminal Prosecution in England"*** (Oxford University Press, London 1960) p. 75 — Modern Law Review, Vol. 81, Jan. 1968, p. 54.]

9. Thus, the legal principles and practice validate the Court considering the likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice. It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record, particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further crimes on the members of society. Bail discretion, on the basis of evidence about the criminal record of a defendant, is therefore not an exercise in irrelevance." (emphasis supplied)

57. In ***Prahlad Singh Bhati v. State (NCT of Delhi), (2001) 4 SCC 280: 2001 SCC (Cri) 674***, this Court highlighted various aspects that the courts should keep in mind while dealing with an application seeking bail. The same may be extracted as follows: (SCC pp. 284-85, para 8)

"*8. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles, having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing 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 or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the 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 it (sic 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." (emphasis supplied)

58. This Court in ***Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598: 2002 SCC (Cri) 688***, speaking through Banerjee, J., emphasised that a court exercising discretion in matters of bail has to undertake the same judiciously. In highlighting that bail should not be granted as a matter of course, bereft of cogent reasoning, this Court observed as follows: (SCC p. 602, para 3)

"*3. Grant of bail, though being a discretionary order, but, however, calls for the exercise of such a discretion in a judicious manner and not as a matter of course. An order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts do always vary from case to case. While placement of the accused in the society, though it may be considered by itself, cannot be a guiding factor in the matter of grant of bail, and the same should always be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — the more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.*" (emphasis supplied)

59. In ***Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528: 2004 SCC (Cri) 1977***, this Court held that although it is established that a court considering a bail application cannot undertake a detailed examination of evidence and an elaborate discussion on the merits of the case, yet the court is required to indicate the prima facie reasons justifying the grant of bail.

60. In Prasanta ***Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496: (2011) 3 SCC (Cri) 765***, this Court observed that

where a High Court has granted bail mechanically, the said order would suffer from the vice of non-application of mind, rendering it illegal. This Court held as under with regard to the circumstances under which an order granting bail may be set aside. In doing so, the factors which ought to have guided the Court's decision to grant bail have also been detailed as under: (SCC p. 499, para 9)

> "*9. ... It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are*:
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> (*i*) *whether there is any prima facie or reasonable ground to believe that the accused had committed the offence*;
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> (*ii*) *nature and gravity of the accusation*;
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> (*iii*) *severity of the punishment in the event of conviction*;
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> (*iv*) *danger of the accused absconding or fleeing, if released on bail*;
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> (*v*) *character, behaviour, means, position and standing of the accused*;
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> (*vi*) *likelihood of the offence being repeated*;
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> (*vii*) *reasonable apprehension of the witnesses being influenced; and*
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> (*viii*) *danger, of course, of justice being thwarted by grant of bail.*" (emphasis supplied)
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> **xxxxxxx**

62. One of the judgments of this Court on the aspect of application of mind and requirement of judicious exercise of discretion in arriving at an order granting bail to the accused is ***Brijmani Devi v. Pappu Kumar, (2022) 4 SCC 497 : (2022) 2 SCC (Cri) 170***, wherein a three-Judge Bench of this Court, while setting aside an unreasoned and casual order

(***Pappu Kumar v. State of Bihar, 2021 SCC OnLine Pat 2856*** and ***Pappu Singh v. State of Bihar, 2021 SCC OnLine Pat 2857***) of the High Court granting bail to the accused, observed as follows: (***Brijmani Devi v. Pappu Kumar, (2022) 4 SCC 497 : (2022) 2 SCC (Cri) 170]***), SCC p. 511, para 35)

> "*35. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a court to arrive at a prima facie conclusion. While considering an application for the grant of bail, a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence(s) alleged against an accused.*" (emphasis supplied)

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

10. The status report shows that the police recovered 7.033 kgs of opium poppy husk from the vehicle bearing registration No. HR03U-8780 being driven by the petitioner. The central Government has issued a notification prescribing 1 kg of opium poppy straw as the small quantity, and 50 kg of the poppy straw is the commercial quantity. Thus, the petitioner was found

in possession of an intermediate quantity, and the rigours of Section 37 of the ND&PS Act do not apply to the present case.

11. The petitioner asserted that he has no criminal antecedents, and this was not stated to be incorrect in the status report filed by the police; rather, it was stated that no other FIR was registered against the petitioner. Hence, the petitioner is a first offender, and he has a chance to reform himself. In case of his continued detention, he would come in contact with hardened criminals, and the chances of his reformation would become bleak.

12. It was submitted that the petitioner is a resident of a different State, and he can abscond in case of his release on bail. The learned Trial Court also declined the bail on this ground; however, this is no reason to decline the bail. It was laid down by this Court in ***Collins vs. State of H.P. (27.04.2021 - HPHC) : MANU/HP/0244/2021,*** that the bail cannot be denied to a person on the ground of his residence/nationality. It was observed:

> "15. In ***Shokhista v. State, MANU/DE/3209/2005: 2005 LawSuit (Del) 1316***, Delhi High Court observed,
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> > 5. The accused is a foreign national and is not able to furnish a local surety. The same does not debar her from being admitted to bail. The provision of local

> surety is nowhere mentioned in the Code of Criminal Procedure, and surety can be from any part of the country or without. In the present case, since the accused is a foreign national and is facing investigation under Sections 4, 5 and 8 of the I.T.P. Act and in view of the fact that the Petitioner is ready and willing to make a deposit in cash in lieu of the surety in addition to a personal bond, I am of the opinion that the ends of justice would be met in permitting her to do so. Consequently, I admit the Petitioner to bail on her furnishing a personal bond in the sum of Rs. 20,000/- and a cash deposit of the like amount in lieu of the surety to the satisfaction of the Trial Court. The Petitioner shall not leave the country without prior permission of the trial court and shall deposit her passport with the trial court.
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> 16. Given the above reasoning, coupled with the peculiar facts and circumstances of the case, the Court is granting bail to the petitioner, subject to strict terms and conditions, which shall be over and above and irrespective of the contents of the form of bail bonds in chapter XXXIII of Cr.P.C., 1973."

13. Thus, the petitioner cannot be denied bail simply because he is a resident of a different State.

14. The apprehension expressed by the prosecution that the petitioner would intimidate the witnesses can be removed by imposing conditions and is not sufficient to deny bail to the petitioner.

15. The police have filed the charge sheet, which means that the custody of the petitioner is not required. The status

report also does not mention any reason for the custody of the petitioner.

16. In view of the above, the present petition is allowed, and the petitioner is ordered to be released on bail in the sum of ₹1,00,000/- with one surety of the like amount to the satisfaction of the learned Trial Court. While on bail, the petitioner will abide by the following terms and conditions: -

(I) The petitioner will not intimidate the witnesses, nor will he influence any evidence in any manner whatsoever;

(II) The petitioner shall attend the trial on each and every hearing and will not seek unnecessary adjournments;

(III) The petitioner will not leave the present address for a continuous period of seven days without furnishing the address of the intended visit to the SHO concerned, the Police Station concerned and the Trial Court;

(IV) The petitioner will surrender his passport, if any, to the Court; and

(V) The petitioner will furnish his mobile number and social media contact to the Police and the Court and will abide by the summons/notices received from the Police/Court through SMS/WhatsApp/Social Media Account. In case of any change in the mobile number or social media accounts, the same will be intimated to the Police/Court within five days from the date of the change.

17. It is expressly made clear that in case of violation of any of these conditions, the prosecution will have the right to file a petition for cancellation of the bail.

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18. The petition stands accordingly disposed of. A copy of this order be sent to the Jail Superintendent, Sub Jail Nalagarh, District Solan, H.P. and the learned Trial Court by FASTER.

19. 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

27th October, 2025.
(Nikita)

CHANDER SHEKHAR
Digitally signed by CHANDER SHEKHAR
Date: 2025.10.27 13:21:15 +0530