IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CrMP(M) No. 1699 of 2026
Reserved on: 15.10.2026
Date of Decision: 26.10.2026

Sanjeev Kumar .... Petitioner

Versus

State of HP .... Respondent

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] No.

For the Petitioner	:	Mr N.S. Chandel, Senior Advocate with M/s Shwetima Dogra and Kanika, Advocate.
For the Respondent/State	:	Mr Ajit Sharma, Deputy Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 26 of 2026, dated 10.02.2026, registered at Police Station Amb, District Una, H.P. for the commission of offences punishable under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act).

2. It has been asserted that as per the prosecution, the police had received secret information on 10.02.2026, at about

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

05:15 p.m., that a car bearing registration number HP-19AB-2409 was transporting a huge quantity of narcotic drugs. The information was reduced to writing and was sent to the Supervisory Officer. The police joined Sehdev and Rakesh Kumar and intercepted the car at about 06:00 p.m. The driver identified himself as Sanjeev Kumar (the present petitioner). The police searched the car and recovered 31,800 tablets of Tamadol, weighing 3 kg. 180 grams. The police registered the FIR and arrested the petitioner. The petitioner is innocent, and he was falsely implicated. The petitioner is a permanent resident of District Una, H.P. He is a sole earner in the family, and his family is facing hardship in his absence. The co-accused Rajinder Kumar and Ashwini Maurya have been released on bail, and the petitioner is entitled to bail on the principle of parity. 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 matter was listed before the learned trial Court on 21.09.2026 for consideration of charge. 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 10.02.2026. They received secret information at about 5.15 p.m. that a vehicle bearing registration No. HP-19AB-2409 was transporting a huge quantity of the prohibited drugs. The information was credible. It was reduced to writing and was sent to the Sub-Divisional Police Officer (SDPO), Amb. The police associated Sehdev and Rakesh Kumar as witnesses and set up a naka. The vehicle bearing registration No. HP-19AB-2409 was intercepted at about 06.00 p.m. The driver identified himself as Sanjeev Kumar. Police searched the vehicle and recovered two cartons containing 31,800 tablets of Tramadol Hydrochloride and 3,735 tablets of Alprazolam. The police also found capsules of Pregabalin and Methyl cobalamin, which were not mentioned in the NDPS Act. The police seized the tablets and arrested Sanjeev Kumar. Sanjeev Kumar made a statement during custody that the tablets were sent by Mahesh Kumar, a resident of Jaunpur. Payments were made to him electronically by remitting the money to his account. The account was registered in the name of Chander Kumar, who could not be traced. The police checked the call detail records and found that the petitioner Sajeev Kumar had talked to Rajender. The petitioner also produced a mobile phone. Police traced the drugs to

Ashwani Maurya and Vishal Maurya. It was also found that the drugs were sent through the courier, and the name of the sender was mentioned as Mahesh Sharma. The mobile number of Vishal Maurya was mentioned on the box. The police arrested Ashwani Maurya and Vishal Maurya. The result of the analysis was received, in which it was mentioned that Dottpain was a sample of Acetaminophen, and the Alpha 0.5 was a sample of an Alprazolam tablet. The total weight mentioned on the strips was found to be incorrect, and the Drug Inspector certified that the total weight of the Alprazolam was 515.43 grams as per the reports of analysis. An application was filed for sending the bulk of the case property to FSL. It was found during the investigation that Ashwani Maurya had sent the parcel through the courier. Ashwani Maurya was operating the email ID created in the name of Mahesh Sharma. He and the co-accused had supplied the prohibited drugs to Sanjeev Kumar. The petitioner would indulge in the commission of a similar offence if released on bail. The police have filed the charge sheet before the Court, and the matter was listed before the learned Trial Court for recording the statements of prosecution witnesses on 04.12.2026. Hence, the status report.

4. I have heard Mr N.S. Chandel, learned Senior Advocate, with M/s Shwetima Dogra and Kanika, learned counsel for the petitioner and Mr Ajit Sharma, learned Deputy Advocate General, for the respondent/State.

5. Mr N.S. Chandel, learned Senior Advocate, for the petitioner submitted that the petitioner is innocent and he was falsely implicated. He had a valid license with him, but he could not produce it before the police at the time of the seizure. This fact should not be held against the petitioner. The petitioner had the authority to possess the drugs, and there is no violation of the provisions of the NDPS Act. Therefore, 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, as per the status report, the petitioner had a valid license, but he had not produced the license at the time of the interception of the vehicle. He had not even produced the license before the learned trial Court. The petitioner had violated the conditions of the license, and he is not entitled to bail. Hence, he prayed that the present petition be dismissed.

7. I have given considerable thought to the submissions made at the bar and have gone through the 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 a 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.]
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> > *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 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 the placement of the accused in society, though it may be considered by itself, cannot be a guiding factor in the matter of grant of bail, 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:

(*i*) *whether there is any prima facie or reasonable ground to believe that the accused had committed the offence*;

(*ii*) *nature and gravity of the accusation*;

(*iii*) *severity of the punishment in the event of conviction*;

(*iv*) *danger of the accused absconding or fleeing, if released on bail*;

(*v*) *character, behaviour, means, position and standing of the accused*;

(*vi*) *likelihood of the offence being repeated*;

(*vii*) *reasonable apprehension of the witnesses being influenced*; *and*

(*viii*) *danger, of course, of justice being thwarted by grant of bail.*" (emphasis supplied)

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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 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. Hon'ble Supreme Court held in ***State of Rajasthan v. Balchand*, *(1977) 4 SCC 308: 1977 SCC (Cri) 594: 1977 SCC OnLine SC 261*** that the normal rule is bail and not jail, except where the gravity of the crime or the heinousness of the offence suggests otherwise. It was observed at page 308:

> 2. The basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, by the petitioner who seeks enlargement on bail from the Court. We do not intend to be exhaustive but only illustrative.
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> 3. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh with us when considering the question of jail. So also, the heinousness of the crime...."

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

11. The fresh status report filed by the State mentions that the petitioner had a valid licence to sell stock or exhibit or offer for sale or distribute by wholesale drugs other than those specified in Schedules C and C (1) and X. This licence was valid in perpetuity. There is nothing to show that the licence has been revoked by the competent authority. Alprazolam and Tramadol have been mentioned in Schedule H of the Drugs and Cosmetics Rules and their possession was authorised, as per the licence. The Drugs Inspector had clarified vide his report dated 09.10.2026 that the licence holder involved in sale and purchase of the drugs during transit should follow Section 62D of the Drugs and Cosmetics Act. The licence shall not be required when a public carrier or hired vehicle is used for transportation or distribution of the drugs. Therefore, prima facie, the petitioner's involvement in the commission of an offence punishable under Section 21 of the NDPS Act is not made out.

12. It was submitted that the petitioner had not carried the licence and there was a violation of Section 21 of the NDPS Act. This submission cannot be accepted. There is no condition in the licence that it is required to be carried at the time of transportation of drugs. The Drugs Inspector clarified that the

non-production of the licence would be a violation of Rule 62D. Therefore, it is difficult to agree with the submission that a case under Section 21 of the NDPS Act would be made out by mere non-production of the licence.

13. Therefore, there are insufficient reasons to believe that the petitioner is involved in the commission of an offence punishable under Section 21 of the NDPS Act.

14. It is undisputed that the police have filed the charge sheet before the Court, which means that the petitioner's custodial interrogation is not required. The status report does not show that continuous detention of the petitioner is necessary.

15. The Petitioner asserted that he is a permanent resident of District Una, which was not stated to be incorrect; therefore, the petitioner has roots in the society, and there is no chance of his absconding.

16. In view of the above, the present petition is allowed, and the petitioner is ordered to be released on bail subject to his furnishing bail bonds in the sum of ₹1,00,000/- with one surety each in the like amount to the satisfaction of the learned Trial

Court. While on bail, the petitioner will abide by the following 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 addresses 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.

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

19. The observations made hereinabove are regarding the disposal of these petitions and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

26th October, 2026
(Ravinder)

RAVINDER KUMAR

Digitally signed by RAVINDER KUMAR
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