IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No. 1718 & 2037 of 2026
Date of Decision: 05.11.2026

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1. Cr.MP(M) No.1718 of 2026

Asha Stephen Massey .....**Petitioner**

Versus

State of Himachal Pradesh .....**Respondent**

2. Cr.MP(M) No.2037 of 2026

Mohd. Ahmad .....**Petitioner**

Versus

State of Himachal Pradesh .....**Respondent**

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? Yes.

For the Petitioner: Dr. Rajesh Kumar Parmar & Mr. Gaurav Thakur, Advocates, for the petitioner in Cr.MP(M) No.1718 of 2026.

Mr. Mukesh Bansal, Advocate, for the petitioner in Cr.MP(M) No.2037 of 2026.

For the Respondent(s): Mr. Rajan Kahol, Additional Advocate General with Mr. Ravi Chauhan, Deputy Advocate General.

Mr. Lovely Thakur, Drug Inspector present in person along with record.

Sandeep Sharma, J. *(Oral)*

Bail petitioners, namely, Ms. Asha Stephen Massey, aged 43 years and Mohd. Ahmad, who are behind bars since 28.04.2026 and 17.04.2026, have approached this Court in the instant proceedings filed under Section 483 of BNSS, 2023 for grant of regular bail in Complaint No.

1 of 2023 instituted by Drug Inspector, Chamba for the alleged commission of offences punishable under Section 18(a)(i), read with Sections 17B, 18A, 18(a)(vi), 22(1)(cca), 22(3), and 18(c), punishable under Sections 27(c), 27(b)(ii), 28, 27(d), and 23 of the Drugs and Cosmetics Act. Respondent-State has filed status report and Drug Inspector Lovely Thakur has come present with record. Record perused and returned.

2. Perusal of record reveals that due to increase in cases of purchase, sale, and distribution of intoxicating drugs like Pregabalin and Tapentadol, etc., by online platforms/e-pharmacies without any bills through courier agencies in District Chamba, letter dated 30.07.2025 was issued to all courier agencies, including M/s Delhivery Courier Agency, Sultanpur, District Chamba, to identify all parcels containing spurious/habit-forming drugs and to report such parcels to the office of Drug Inspector, Headquarters, Chamba. More than 20 cases of online sale of spurious /habit-forming drugs without bills and licence were registered in District Chamba in the last 2–3 years.

3. During investigation, it transpired that present bail petitioners, in collusion with other absconding accused named in the FIR, supplied huge stock of spurious/habit-forming drugs in District Chamba in an organized way through parcels having misleading information of consignee

and contents of parcels since April 2025 to December 2025. During search, one bag was found in the room of Harmeet Singh containing huge stock of habit-forming drugs as Tapadol 100 tablets (Tapentadol), Nervigesic capsules 450 mg (Pregabalin), Nervigesic 300 mg capsule (Pregabalin), Aspadol tablets (Tapentadol), and other loose colour tablets and capsules, which reads as under:-

> *a. Tapdol 100 tablets (tapentadol), batch number (b. no.) ST2510146, quantity-107 tablets marketed by M/s Scotec Pharma khasra no. 16/5, Vidya Nagar, Nanhera Ambala Cant. Ambala Haryana.*
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> *b. Nervigesic 450 mg (pregabalin) capsules B. no. B 712853, quantity 33 capsules, manufactured by M/s Signature phytochemical industry 122, MI Selaqui Industrial area Dehradun 248011.*
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> *c. Nervigesic 300 mg (pregabalin) b. no. 531728, quantity-28 capsules, manufactured by M/s Signature phytochemical industry 122, MI Selaqui Industrial area Dehradun 248011*
>
> *d. Aspadol 100 tablets (tapentadol) b. no. 435-55, quantity (qty) – 50 tablets*
>
> *e. Unlabelled capsules and tablets qty. 45 tablets and capsules.*

4. During further investigation, one carton box with label "Delhivery AWB 38790810000825 ship to Mr Harmeet Singh Julakd Near 0 point Chamba HP Chamba-Sultnpur-D (Himachal Pradesh) pin 176310 COD-Express INR 10000 date 12-Nov-2025/ 12:55 PM Seller: Asha

Enterprises, Janta Nagar, Indira Nagar Gala no. 4, Ground Mumbai GM Link Road Mumbai Maharashtra- product name & SKU- soap Qty, return address shop no. 8, Devkrupa federation, Shivaji Nagar road no. 5, near gita vikas hall Govandi-Mumbai Maharashtra India 400043 bar code AH/54505/3005", and one carry bag with carton box labelled as "Abhishek add Dhampu, Chamba HP" were recovered from almirah of Harmeet Singh.

5. From the box labelled as "Abhishek add. Dhampu, Chamba HP", stock of Tapentadol tablets were recovered as follows:

a. Aspadol tablets (tapentadol)- 400 tablets

b. Tapdol 100 (tapentadol)- 928 tablets, M/s Scotec Pharma khasra no. 16/5, Vidya Nagar, Nanhera Ambala Cant. Ambala Haryana.

6. From box labelled with 'AWB 38790810000825' huge stock of NERVIGESIC 300 mg and NERVIGESIC 450 mg capsules was recovered as follows:

a. Nervigesic 450 mg (pregabalin) capsules B. no. B 712853, quantity 465 capsules, manufactured by M/s Signature phytochemical industry 122, MI Selaqui Industrial area Dehradun 248011

b. Nervigesic 300 mg (pregabalin) b. no. 531728, quantity 475 capsules, manufactured by M/s Signature phytochemical industry 122, MI Selaqui Industrial area Dehradun 248011

c. One loose capsule.

7. Investigation revealed that above box containing spurious/habit-forming drugs was labelled as "SOAP" by the present petitioner Ms. Asha Stephen Massey to hide the contents of the said parcel. Four samples were taken for the purpose of test and analysis from recovered drugs. All drugs remaining after sample were seized on Form 16 and spot report was made.

8. The drug Nervigesic 450 mg (Pregabalin 450 mg) capsule was not approved for sale in domestic market in India, rather the same can only be manufactured for export purposes only. Central Drugs Standard Control Organisation had approved Pregabalin capsules for domestic market with maximum strength of 300 mg only for the purpose of treatment of peripheral neuropathic pain in adults and fibromyalgia syndrome only.

9. After having taken custody of seized drugs pursuant to the court order, police conducted the investigation and found that parcel with AWB No. 38790810000825 recovered from Harmeet Singh was found delivered by M/s Delhivery Courier Limited Agency, Chamba. Hence, on 04.12.2025, notice was issued to Dimple Malhotra, M/s Delhivery Limited, Khajjiar Chowk, Sultanpur, Chamba, HP with request to explain their position in that regard and to disclose the details of consignor and consignee of the said parcel. As per label of the above-mentioned parcel, the

seller was found to be present petitioner Ms. Asha Stephen Massey. Hence, a letter dated 04.12.2025 was issued to M/s Asha Enterprises through registered post and she was directed to join the investigation on 29.12.2025.

10. Notice dated 04.12.2025 was also issued to M/s Signature Phytochemical Industries, 122, MI, Selaqui Industrial Area, Dehradun (manufacturer of NERVIGESIC 450 mg and 300 mg as per label claim) for production of records. Though reply of the firm was received on 22.12.2025 and it was informed that drug NERVIGESIC 450 mg, batch number 712-35, expiry 07/2028, was not manufactured by said firm. Hence, it was confirmed that drug NERVIGESIC 450 mg was spurious.

11. During investigation, it also transpired that drug NERVIGESIC 300 mg claimed to have been manufactured by M/s Care Club Pharmaceutical was sold to M/s Vedic Export, Mumbai. During investigation, it was found that number of tablets of the drugs named hereinabove were sold to various persons in Chamba through courier. Since courier was sent on behalf of the present petitioner Ms. Asha Stephen Massey, petitioner Ms. Asha Stephen Massey, who had come present before the investigating agency pursuant to notice issued to her, was arrested.

12. Petitioner, while admitting herself to be owner of M/s Asha Enterprises, submitted before the Drug Inspector that she only runs a courier agency and she does not know what is contained in the parcel. Though she admitted that parcels from where spurious/habit-forming drugs were sent on her ID and password shared with bail petitioner Mohammad Ahmad, employee of M/s Vedic Export, but she also claimed, while admitting that she runs her own courier agency, that parcels from which spurious/habit-forming drugs, were not sent through her agency, rather from a third agency, namely Delhivery. Though she admitted that sender's name on the parcel was hers, but same was not sent by her, rather were sent by the petitioner namely Mohammad Ahmad using her ID and password.

13. During investigation, it was found that spurious/habit-forming drugs were actually supplied by M/s Vedic Export and same were subsequently handed over to the petitioner Mohammad Ahmad, who in connivance with the present bail petitioner Ms. Asha Stephen Massey sent it to various destinations, including Chamba. In the afore background, case came to be lodged against the present bail petitioners as well as Shahid Anwar and Salman, proprietors of M/s Vedic Export. Present bail petitioners are behind bars since 28.04.2026 and 17.04.2026, whereas

accused namely Shahid Anwar and Salman, proprietors of M/s Vedic Export, were granted interim bail and now, they are absconding.

14. Since challan stands filed in the competent court of law and nothing remains to be recovered from the bail petitioners, they have approached this Court in the instant proceedings for grant of regular bail.

15. Dr. Rajesh Parmar and Sh. Mukesh Bansal, learned counsel representing the bail petitioners, submit that bail petitioners have been falsely implicated and they have no role whatsoever in supplying spurious/habit-forming drugs as is alleged against them. They state that as per own case of the investigating agency, spurious/habit-forming drugs were being supplied for further delivery by proprietors of M/s Vedic Export and bail petitioner, namely Ms. Asha Stephen Massey, who runs a courier agency, only sent the consignment through courier. Mr. Bansal states that it is also admitted case of the prosecution that bail petitioner Mohammad Ahmad was an employee of M/s Vedic Export and in that capacity, he had been visiting the courier agency for sending packets, but he had no conscious knowledge with regard to the contents and quantity contained in the parcels. Learned counsel representing petitioners further state that main accused, i.e. proprietors of M/s Vedic Export, who at the first instance were granted interim bail, are absconding, but for no fault of

them, bail petitioners are suffering without being held guilty, which is not permissible under law.

16. While fairly admitting factum with regard to filing of challan in the competent court of law, Mr. Rajan Kahol, Additional Advocate General, states that though nothing remains to be recovered from the bail petitioners, but keeping in view the gravity of offence alleged to have been committed by them, they do not deserve any leniency, rather need to be dealt with severely. Mr. Kahol states that there is overwhelming evidence adduced on record suggestive of the fact that present bail petitioners are part of a racket which had been sending habit-forming drugs to various destinations, including Chamba. He states that it has come in investigation that bail petitioner Ms. Asha Stephen Massey, who runs a courier agency in the name and style of M/s Asha Enterprises, purposely did not send couriers containing drugs from her agency, rather same were sent by a third agency, namely Delhivery. He states that once it is not in dispute that in all the couriers sent through Delhivery, Ms. Asha Stephen Massey was shown to be sender, she is otherwise responsible to know the quantity and contents contained in the parcel. Mr. Kahol states that though it is claimed at the behest of Ms. Asha Stephen Massey that co-accused Mohammad Ahmad had been sending such couriers using her ID, but it is not

explained for what purpose and under what arrangement, Ms. Asha Stephen Massey shared her ID with Mohammad Ahmad. Mr. Kahol states that during investigation, it has also emerged that huge quantity of spurious/habit-forming drugs was being supplied by present bail petitioners through courier agencies and they had definite knowledge with regard to contents contained in the parcels and as such, no illegality can be said to have been committed by the investigating agency while registering cases against the bail petitioners. Mr. Kahol further states that as per investigation, co-accused Harmeet Singh directly contacted the bail petitioner Mohammad Ahmad for supply of spurious/habit-forming drugs, and Mohammad Ahmad, after having arranged such drugs from M/s Vedic Exports, sent the same to Harmeet Singh and as such, it cannot be said that he has been falsely implicated and he had no knowledge with regard to contents contained in the parcel.

17. Having heard learned counsel representing parties and perused material available on record, this Court finds that complaint in the case came to be lodged pursuant to recovery of spurious/ habit-forming drugs effected from the house of co-accused Harmeet Singh, who allegedly disclosed that same were received by him through courier sent by the present bail petitioners. It is admitted case of the prosecution that

spurious/habit-forming drugs which came to be supplied in various parts of Himachal, including Chamba, were actually supplied by M/s Vedic Export, but through courier agency run by the bail petitioner Ms. Asha Stephen Massey. It is also the case of the prosecution that bail petitioner Mohammad Ahmad had been bringing couriers from M/s Vedic Export for sending the same through courier agency owned by the bail petitioner Ms. Asha Stephen Massey.

18. Admittedly, Ms. Asha Stephen Massey runs a courier agency in the name of M/s Asha Enterprises, but interestingly, no courier containing spurious/habit-forming drugs was sent through aforesaid agency, rather same was sent through courier agency, namely Delhivery, with which bail petitioner Ms. Asha Stephen Massey had entered into an agreement for delivery services. Since on the parcel, from where habit-forming drugs were recovered, name of the sender was of the bail petitioner Ms. Asha Stephen Massey, Ms. Asha Stephen Massey came to be named in the FIR, who while claiming herself to be innocent, attempted to set up a case that these couriers had been sent by the bail petitioner Mohammad Ahmad using her ID through Delhivery agency. However, as per contents of the complaint, Ms. Asha Stephen Massey herself permitted Mohammad Ahmad to use her ID, but the question, which is of great importance and needs to be

determined, is *"whether both bail petitioners, who actually had couriered parcels containing spurious/habit-forming drugs, had any knowledge with regard to contents contained in the parcels?"*

19. Nothing has emerged in investigation till date suggestive of the fact that bail petitioners had been part of manufacturing of such spurious drugs by M/s Vaidik Export or they had any kind of knowledge that couriers being sent through them contained spurious/habit-forming drugs. No doubt, there is a statement of co-accused Harmeet Singh that he had contacted Mohammad Ahmad for delivery of spurious/habit-forming drugs, but that may not be sufficient to conclude that Mohammad Ahmad had any knowledge with regard to articles/contents contained in drug/medicine asked to be supplied by the co-accused Harmeet Singh. Co-accused Harmeet Singh, being a petty employee of company M/s Vedic Export, cannot be expected to know what is being manufactured, rather there appears to be merit in the contention of Mr. Mukesh Bansal, learned counsel for the bail petitioner Mohammad Ahmad, that Mohammad Ahmad remained under the impression that he is working in some pharmaceutical company which manufactures drugs.

20. No doubt, though Mr. Rajan Kahol, learned Additional Advocate General, strenuously argued that once it is not in dispute that bail

petitioner Ms. Asha Stephen Massey has her own courier company in the name and style of M/s Asha Enterprises, where she had been sending couriers through agency named Trackon, where was the occasion for her to use a third agency, Delhivery, for sending the parcels containing spurious/habit-forming drugs. However, this Court is not impressed with the aforesaid submission of Mr. Kahol for the reason that petitioner, besides having agency of Trackon, was also having an agreement with Delhivery, from where she had been sending couriers to such destinations where there was no service available of Trackon company.

21. No doubt, bail petitioner Ms. Asha Stephen Massey, on account of her having permitted M/s Vedic Export to use her name as sender on courier, is answerable for the contents contained in the parcel, but in totality of facts, especially when there is ample material adduced on record by the investigating agency suggestive of the fact that spurious/habit-forming drugs were actually supplied by M/s Vedic Exports through agency owned by the bail petitioner Ms. Asha Stephen Massey, coupled with fact that there is no record with regard to financial transactions, if any, *inter se* M/s Vedic Exports and present bail petitioner Ms. Asha Stephen Massey showing that bail petitioner Ms. Asha Stephen Massey was also earning

profits from the sale of spurious/habit-forming drugs, it would be too premature to conclude the complicity of the above named bail petitioner.

22. Similarly, this Court is of the view that bail petitioner, namely Mohammad Ahmad, was an employee of M/s Vedic Export and cannot be expected to know contents contained in the parcel sent through him for courier, rather he, being a petty employee, is always under obligation to act upon the instructions of the owner. At present, there is no evidence suggestive of the fact that there was any connivance *inter se* bail petitioners and owners of M/s Vedic Exports, who are otherwise absconding.

23. Though it came to be vehemently argued at the behest of Mr. Rajan Kahol, learned Additional Advocate General that rigours of Section 36AC of the Drugs and Cosmetics Act are applicable, but for the detailed discussion made hereinabove, this Court is not dissuaded from considering the prayer made on behalf of the petitioners for grant of bail. Admittedly, before granting bail, opportunity of being heard has been provided to learned Additional Advocate General, who besides perusing record, also sought presence of Drug Inspector, who conducted investigation.

24. Similarly, as has been observed hereinabove, there is no concrete evidence available at this stage to infer complicity of the petitioners in the case at hand. No record, if any, with regard to

involvement of the petitioners in such-like cases in past has been made available, compelling this Court to presume that in the event of their being enlarged on bail, they will indulge in such activities.

25. To the contrary, bail petitioner Ms. Asha Stephen Massey, being a woman aged 43, is otherwise entitled to be granted bail in terms of Section 36AC of the Drugs and Cosmetics Act, first proviso, which reads as under:-

> ***36AC. Offences to be cognizable and non-bailable in certain cases. –***
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> *(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),--*
>
> *(a) every offence, relating to adulterated or spurious drug and punishable under clauses (a) and (c) of sub-section (1) of section 13, clause (a) of sub-section (2) of section 13, sub-section (3) of section 22, clauses (a) and (c) of section 27, section 28, section 28A, section 28B and sub-sections (1) and (2) of section 30 and other offences relating to adulterated drugs or spurious drugs, shall be cognizable.*
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> *(b) no person accused, of an offence punishable under clauses (a). and (c) of sub-section (1) of section 13, clause (a) of sub-section (2) of section 13, sub-section (3) of section 22, clauses (a) and (c) of section 27, section 28, section 28A, section 28B and sub-sections (1) and (2) of section 30 and other offences relating to adulterated drugs or spurious drugs, shall be released on bail or on his own bond unless--*
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> *(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:
Provided that a person, who, is under the age of sixteen years, or is a woman or is sick or infirm, may be released on bail, if the Special Court so directs.
(2) The limitation on granting of bail specified in clause (b) of sub-section (1) is 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.
(3) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439 of the Code of Criminal Procedure, 1973 (2 of 1974) and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to "Magistrate" in that section includes also a reference to a "Special Court" designated under section 36AB.]

26. Hon'ble Apex Court and this Hon'ble Court have held in a catena of judgments that one is deemed to be innocent, till the time, his/her guilt is proved in accordance with law. In the case at hand, guilt, if any, of the bail petitioner is yet to be proved in accordance with law, as such, this court sees no reason to let the bail petitioner incarcerate in jail, for an indefinite period, especially when, he is behind the bars.

27. Apprehension expressed by of learned Additional Advocate General that in the event of the bail petitioner being enlarged on bail, he may flee from justice, can be best met by putting the bail petitioner to stringent conditions.

28. Hon'ble Apex Court in Criminal Appeal No. 227/2018, **Dataram Singh vs. State of Uttar Pradesh & Anr** decided on 6.2.2018 has held that freedom of an individual cannot be curtailed for indefinite period, especially when his/her guilt is yet to be proved. It has been further held by the Hon'ble Apex Court in the aforesaid judgment that a person is believed to be innocent until found guilty.

29. Hon'ble Apex Court in **Sanjay Chandra versus Central Bureau of Investigation (2012)1 Supreme Court Cases 49** has held that gravity alone cannot be a decisive ground to deny bail, rather competing factors are required to be balanced by the court while exercising its discretion. It has been repeatedly held by the Hon'ble Apex Court that object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative.

30. In **Manoranjana Sinh alias Gupta versus CBI, (2017) 5 SCC 218**, Hon'ble Apex Court has held that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in

the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise also, normal rule is of bail and not jail. Apart from above, Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment, which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

31. The Apex Court in **Prasanta Kumar Sarkar versus Ashis Chatterjee and another (2010) 14 SCC 496**, has laid down various principles to be kept in mind, while deciding petition for bail viz. prima facie case, nature and gravity of accusation, punishment involved, apprehension of repetition of offence and witnesses being influenced.

32. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, bail-petitioners have carved out a case for grant of bail, accordingly, the petitions are allowed and the bail-petitioners are ordered to be enlarged on bail in aforesaid FIR, subject to their furnishing personal bonds in the sum of Rs. 2,00,000/- each, with two local sureties in the like amount to the satisfaction of concerned Chief Judicial Magistrate/trial Court, with following conditions:

a. They shall make themselves available for the purpose of interrogation, if so required and regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;
b. They shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;
c. They shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or the Police Officer; and
d. They shall not leave the territory of India without the prior permission of the Court.

33. It is clarified that if the petitioners misuse their liberty or violate any of the conditions imposed upon them, the investigating agency shall be free to move this Court for cancellation of the bail.

34. Any observations made hereinabove shall not be construed to be a reflection on the merits of the main case and shall remain confined to the disposal of these applications alone. The bail petitions stand disposed of accordingly.

35. The petitioners are permitted to produce copy of order downloaded from the High Court Website and the trial court shall not insist for certified copy of the order, however, it may verify the order from the High Court website or otherwise.

November 05, 2026 **(Sandeep Sharma),**
(sunil) **Judge**