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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No. 1946 of 2026
Reserved on: 29.10.2026.
Decided on: 02.11.2026

Kamal Jeet Singh .... Petitioner

Versus

State of H.P. .... Respondent

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

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

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 36 of 2026 dated 27.04.2026 registered at Police Station, Panchrukhi, District Kangra, H.P. for the commission of offences punishable under Section 20, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act (in short "NDPS Act").

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

2. It has been asserted that, as per the prosecution, the co-accused Surinder Kumar and Gopal were found in possession of 4 kg 40 grams of charas on 27.04.2026. Gopal revealed during the interrogation that the accused Sangam had transferred ₹20,000/- to his account through Paytm. Gopal and Surinder Kumar also revealed that they were going to supply the charas to the petitioner Kamal Jeet Singh @ Kaku. Co-accused Sangam also revealed during the interrogation that he used to sell charas in collaboration with the petitioner, and he used to handle the financial transactions via cash and Google Pay on the petitioner's instructions. He had also transferred ₹20,000/- to co-accused Gopal as per the petitioner's instructions. These allegations are false. The petitioner has nothing to do with the commission of the crime. The police have also not collected any material to connect the petitioner to the commission of the crime. Six FIRs have been registered against the petitioner. The police have completed the investigation and filed the charge sheet before the Court. The petitioner is a permanent resident of District Kangra. No fruitful purpose would be served by detaining the petitioner in custody. The petitioner would 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 bail.

3. The petition is opposed by filing a status report asserting that the police received the secret information on 27.04.2026 at about 05:30 p.m. that two vehicles carrying charas were parked at Banuri. The information was credible, and the delay in procuring the search warrant would have led to the destruction of the case property. Hence, the information was reduced to writing and was sent to the Sub Divisional Police Officer (SDPO) Kangra. The police proceeded towards the spot. Vehicles bearing registration No. HP-01AA-0965 and T-1225-HP-0044R were found parked at the place indicated in the information. Ajay Sharma and Monika came to the spot, and they were joined with the investigation. The police enquired about the names and addresses of the occupants. The driver of the vehicle bearing registration No. HP-01AA-0965 identified himself as Gopal, and the person sitting beside the driver identified himself as Surender Kumar. The police searched the vehicle and recovered a carry bag containing 4 kg 40 grams of cannabis. The police arrested the occupants and seized the cannabis. Gopal also disclosed during the interrogation that Surinder was driving the vehicle bearing registration No. T-1225-

HP-0044R ahead of the vehicle bearing registration No. HP-01AA-0965 and was alerting Gopal about a police naka, if any. The charas was to be handed over to the petitioner. Gopal also disclosed that Sangam Sharma had transferred ₹20,000/- to him (Gopal). The police arrested the petitioner, who disclosed that Sangam @ Golu used to sell charas with the petitioner. The police also arrested Sangam Sharma. The petitioner made a disclosure statement which led to the recovery of one mobile phone and currency notes worth ₹50,000/-. The petitioner also led the police to the place where he had thrown the SIM of the mobile. Sangam Sharma also made a disclosure statement which led to the recovery of the weighing scale. The charas was sent to the FSL, and as per the report of analysis, it was found to be an extract of cannabis and a sample of charas. Co-accused Jia Lal is yet to be arrested. The petitioner is involved in the commission of a heinous offence. Hence, it was prayed that the present petition be dismissed.

4. I have heard Mr Vijender Katoch, learned counsel for the petitioner and Mr Pawan Kumar Nadda, learned Additional Advocate General for the respondent/State.

5. Mr Vijender Katoch, learned counsel for the petitioner, submitted that the petitioner is innocent and he 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 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. Hence, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Pawan Kumar Nadda, learned Additional Advocate General for the respondent/State, submitted that the police had recovered a commercial quantity of charas from the vehicle. The charas was meant for the petitioner. The co-accused Sangam Sharma had also transferred ₹20,000/- to the account of Gopal. All these circumstances *prima facie* connect the petitioner and the other co-accused to the commission of the crime. The petitioner would indulge in the commission of a similar crime in case of his release on bail. Hence, he prayed that the present petition be dismissed.

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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.
> >
> > *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 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 police have relied upon the statement made by the co-accused Gopal to the police stating that the charas was meant for the present petitioner, the transfer of ₹20,000/- by co-accused

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Sangam Sharma to the account of Gopal, the disclosure statement made by the petitioner leading to the recovery of a mobile phone, a broken SIM and the currency notes worth ₹ 50,000/- to connect the petitioner to the commission of the crime. The statement made by the co-accused Gopal that the charas was meant for the petitioner is inadmissible in evidence and cannot be used to detain the petitioner in custody. It was laid down by the Hon'ble Supreme Court in ***Dipakbhai Jagdishchandra Patel v. State of Gujarat, (2019) 16 SCC 547; (2020) 2 SCC (Cri) 361: 2019 SCC OnLine SC 588*** that a statement made by an accused during the investigation is hit by Section 162 of Cr.P.C. and cannot be used as a piece of evidence. It was also held that the confession made by the co-accused is inadmissible under Section 25 of the Indian Evidence Act. It was observed at page 568: -

> **44.** Such a person, viz., the person who is named in the FIR, and therefore, the accused in the eyes of the law, can indeed be questioned, and the statement is taken by the police officer. A confession that is made to a police officer would be inadmissible, having regard to Section 25 of the Evidence Act. A confession, which is vitiated under Section 24 of the Evidence Act, would also be inadmissible. A confession, unless it fulfils the test laid down in ***Pakala Narayana Swami [Pakala Narayana Swami v. King Emperor, 1939 SCC OnLine PC 1 : (1938-39) 66 IA 66: AIR 1939 PC 47]*** and as accepted by this Court, may still be used as an admission under Section 21 of the Evidence Act. This, however, is subject to the bar of

> admissibility of a statement under Section 161 CrPC. Therefore, even if a statement contains an admission, the statement being one under Section 161, it would immediately attract the bar under Section 162 CrPC."

12. Similarly, it was held in ***Surinder Kumar Khanna vs Intelligence Officer Directorate of Revenue Intelligence 2018 (8) SCC 271*** that a confession made by a co-accused cannot be taken as a substantive piece of evidence against another co-accused and can only be utilised to lend assurance to the other evidence. The Hon'ble Supreme Court subsequently held in ***Tofan Singh Versus State of Tamil Nadu, 2021 (4) SCC 1,*** that a confession made to a police officer during the investigation is hit by Section 25 of the Indian Evidence Act and is not saved by the provisions of Section 67 of the NDPS Act. Therefore, no advantage can be derived by the prosecution from the confessional statement made by the co-accused implicating the petitioner.

13. A similar situation arose before this Court in ***Dinesh Kumar @ Billa Versus State of H.P. 2020 Cri. L.J. 4564,*** and it was held that a confession of the co-accused and the phone calls are not sufficient to deny bail to a person.

14. It was laid down by this Court in ***Saina Devi vs State of Himachal Pradesh 2022 Law Suit (HP) 211*** that where the police have

no material except the call details record and the disclosure statement of the co-accused, the petitioner cannot be kept in custody. It was observed: -

> "**[16]** In the facts of the instant case, the prosecution, for implicating the petitioner, relies upon firstly the confessional statement made by accused Dabe Ram and secondly the CDR details of calls exchanged between the petitioner and the wife of co-accused Dabe Ram. Taking into consideration the evidence with respect to the availability of CDR details involving the phone number of the petitioner and the mobile phone number of the wife of co-accused Dabe Ram, this Court had considered the existence of a prima facie case against the petitioner and had rejected the bail application as not satisfying the conditions of Section 37 of the NDPS Act.
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> **[17]** Since the existence of CDR details of the accused person(s) has not been considered as a circumstance sufficient to hold a prima facie case against the accused person(s), in ***Pallulabid Ahmad's case*** (supra), this Court is of the view that the petitioner has made out a case for maintainability of his successive bail application as also for grant of bail in his favour.
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> **[18]** Except for the existence of CDRs and the disclosure statement of the co-accused, no other material appears to have been collected against the petitioner. The disclosure made by the co-accused cannot be read against the petitioner as per the mandate of the Hon'ble Supreme Court in ***Tofan Singh Vs State of Tamil Nadu, 2021 4 SCC 1***. Further, on the basis of the aforesaid elucidation, the petitioner is also entitled to the benefit of bail.

15. The recovery of a mobile phone, broken SIM and currency notes of ₹50,000/- does not connect the petitioner to the sale/purchase of charas. Therefore, even if the contents of the

status report are taken to be correct, there is insufficient material to detain the petitioner in custody.

16. The petitioner asserted that he is a permanent resident of District Kangra. This was not stated to be incorrect in the status report. It means that the petitioner has roots in the society and there is no chance of his absconding.

17. It was submitted that the petitioner has criminal antecedents and he would indulge in the commission of the crime in case of his release on bail. This submission will not help the prosecution. It was laid down by the Hon'ble Supreme Court in ***Ayub Khan v. State of Rajasthan, 2024 SCC OnLine SC 3763: 2024: INSC:994*** that the criminal antecedents may not be a reason to deny bail to the accused when no *prima facie* case is made out against him. It was observed:

> "**10.** The presence of the antecedents of the accused is only one of the several considerations for deciding the prayer for bail made by him. In a given case, if the accused makes out a strong *prima facie* case, depending upon the fact situation and period of incarceration, the presence of antecedents may not be a ground to deny bail. There may be a case where a Court can grant bail only on the grounds of long incarceration. The presence of antecedents may not be relevant in such a case. In a given case, the Court may grant default bail. Again, the antecedents of the accused are irrelevant in such a case. Thus, depending upon the peculiar

facts, the Court can grant bail notwithstanding the existence of the antecedents."

18. Therefore, the petitioner cannot be detained in custody merely because he has criminal antecedents when no *prima facie* case is made out against him.

19. In view of the above, the present petition is allowed, and the petitioner is ordered to be released on bail, subject to his furnishing a personal bond in the sum of ₹1,00,000/- with one surety 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 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.

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

21. A copy of this order be sent to the Jail Superintendent, Lala Lajpat Rai, District and Open-Air Correctional Home, Dharamshala, H.P., and the learned Trial Court by FASTER.

22. The observations made hereinabove are regarding the disposal of this petition and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

2nd November, 2026
(Nikita)

NIKITA THAKUR

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