2026:HHC:50813

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. MP (M) No. 2057 of 2026**
**Reserved on: 20.11.2026**
**Date of Decision: 25.11.2026**

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Mani Ram ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

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*Coram*

***Hon'ble Mr Justice Rakesh Kainthla, Judge.***

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

For the Petitioner : Mr N.S. Chandel, Senior Advocate, with Ms Shwetima Dogra, Advocate.

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

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**Rakesh Kainthla, Judge**

The petitioner has filed the present petition seeking regular bail in FIR No. 45 of 2025, dated 28.02.2025, registered at Police Station Jogindernagar, District Mandi, H.P., for the commission of offences punishable under Sections 20, 27A and 29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act), and Sections 238 and 249 of the Bharatiya Nyaya Sanhita (BNS).

[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 police party headed by ASI Ajay Kumar was on patrolling duty on 28.02.2025. They received a telephonic call from Constable Bunty Jamwal that he had apprehended three persons at Gugli Khad. The police team went to the spot and found a backpack with Ganga Ram containing 3.11 kg of charas and 310 grams of opium. The petitioner and the co-accused were accompanying Ganga Ram. The allegations against the petitioner are false. There is no material to connect the petitioner to the commission of the crime. 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 petitioner is a permanent resident of District Mandi, H.P. He belongs to a respectable family, and there is no apprehension of his fleeing from justice. 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 team received information on 28.02.2025 that Constable Bunty Jamwal had stopped three

persons in suspicious circumstances. The police team went to the spot, and the apprehended persons identified themselves as Ganga Ram, Mani Ram (the present petitioner), and Sher Singh. Ganga Ram had a black backpack with him. The police searched the backpack in the presence of Rakesh Kumar and Arshad Mohammad and recovered 3 kg 11 grams of charas and 310 grams of opium. The police seized the contraband and arrested the petitioner and the co-accused. The contraband was sent to the FSL, and as per the result of analysis, it was confirmed to be a sample of opium and a sample of charas. It was found during the investigation that all the co-accused had gone to Jolly alias Kala to sell the charas and opium to him. The petitioner had abetted the possession of contraband by the co-accused. The charge sheet was filed before the Court after the completion of the investigation, and the matter is listed for consideration of charge on 28.11.2026. No other case has been registered against the petitioner. The petitioner would indulge in the commission of a similar offence in case of his release on bail. Hence, it was prayed that the present petition be dismissed.

4. I have heard Mr N.S. Chandel, learned Senior Advocate, assisted by Ms Shwetima Dogra, 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. The recovery was effected from the backpack being carried by Ganga Ram, and the petitioner was merely accompanying him. There is no evidence to show the petitioner's involvement in the commission of the crime. The police have filed the charge sheet before the Court, and 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, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Jitender Sharma, learned Additional Advocate General, for the respondent-State, submitted that the petitioner had abetted the possession of a commercial quantity of charas, and the rigours of Section 37 of the NDPS Act apply to the present case. The petitioner has failed to satisfy the twin conditions laid down under Section 37 of the NDPS Act, 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 the 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.]
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> > *9. Thus, the legal principles and practice validate the Court considering the likelihood of the applicant*

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*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 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, 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 on 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 specifically mentions that the co-accused Ganga Ram was carrying a backpack containing 3 kg 11 grams of charas and 310 grams of opium. Ganga Ram subsequently made a disclosure statement leading to the

recovery of 2.109 kg of charas. The status report mentions that Mani Ram had accompanied Ganga Ram to the house of Jagdish for purchasing the opium and charas. However, no material has been shown in the status report that led the police to draw such a conclusion. Therefore, there is force in the submission of Mr N.S. Chandel, learned Senior Advocate, that, *prima facie*, there is no material to connect the petitioner to the commission of the crime at this stage.

11. The status report specifically mentions that the police had filed the charge sheet before the Court, and the matter is listed for consideration of charge. It means that the petitioner's custodial interrogation is not required, and no fruitful purpose would be served by detaining the petitioner in custody.

12. The petitioner asserted that he is a permanent resident of District Mandi. This was not stated to be incorrect in the status report filed by the police, which means that the petitioner has roots in the society, and there is no chance of his absconding.

13. The petitioner was arrested on 28.02.2025, and more than one year has elapsed since the petitioner's arrest. The status report shows that the matter is listed for consideration of charge, which means that the charge has not been framed so far. It would take some time to frame the charges and thereafter examine the witnesses. The petitioner cannot be detained in custody during this time.

14. 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 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.

15. 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.

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

17. 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**

25th November, 2026
(Chander)

CHANDER SHEKHAR

Digitally signed by CHANDER SHEKHAR
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