IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 2169 of 2026
Reserved on: 16.11.2026
Date of Decision: 19.11.2026

Rajneesh Dada ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] No.

For the Petitioner	:	Mr Devender Kumar Sharma, Advocate.
For the Respondent/State	:	Mr Pawan Kumar Nadda, Additional Advocate General with HC Anil No. 71 I.O. P.S. Dhalli, District Shimla, H.P.

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 69 of 2026 dated 30.08.2026, registered at Police Station Dhalli, District Shimla, for the commission of offences punishable under Sections 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act).

2. It has been asserted that the petitioner has been running his business in the name and style of Dada Eye Care and

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

Optics at Kharar, Punjab, since 2012. The police registered the FIR against Sahib Singh alias Sunny Sardar, Deepak Verma and Anuj Sirkaik. The petitioner's name was disclosed by the co-accused during the investigations. The petitioner surrendered before Police Station Dhalli on 18.09.2026, after his application for pre-arrest bail was dismissed by this Court. There is no evidence against the petitioner except the statement made by the co-accused. 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 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 had received secret information on 02.08.2026 at about 9:10 p.m. that Sahib Singh @ Sunny Sardar and Deepak Verma were supplying heroin to the local persons from their home. A huge quantity of heroin could be recovered by searching the house. The information was credible, it was reduced to writing, and was sent to the Supervisory Officer. The police joined Kamal Verma and Ankush Thakur as independent witnesses

and went to the room of Sahib Singh. Deepak Verma and Sahib Singh were found in the room. The police searched the room and recovered 7.740 grams of heroin. The police seized the heroin and arrested Sahib Singh and Deepak Verma. They revealed during the interrogation that they had purchased the heroin from Anuj Sirkeck and Rajneesh, the present petitioner. Anuj Sirkeck also revealed during the interrogation that he had purchased the heroin from the petitioner by transferring the money to the petitioner's account via UPI. The petitioner surrendered before the police on 18.09.2026. He revealed during the interrogation that he had kept the heroin and had sold it to Sahib Singh and Anuj Sirkeck. He could not identify the person who had sold the heroin to him. Sahib Singh and Anuj Sirkeck had paid ₹26,000/- to the petitioner through UPI. The charge-sheet was filed before the Court after the completion of the investigation, and the matter is pending. Hence, the status report.

4. I have heard Mr Devender Kumar Sharma, learned Counsel for the petitioner, and Mr Pawan Kumar Nadda, learned Additional Advocate General for the respondent-State.

5. Mr Devinder Kumar Sharma, learned Counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated based on the statement made by the co-accused. There is no other 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 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 Pawan Kumar Nadda, learned Additional Advocate General for the respondent/State, submitted that the petitioner was named by the co-accused. He had financial transactions with the co-accused, which show his *prima facie* involvement in the commission of the crime. The petitioner has criminal antecedents, and he would indulge in the commission of a similar offence in case of his release on bail. Hence, he prayed that the present petition be dismissed.

2026:HHC:50041

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***
>
> 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)
>
> > "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)

2026:HHC:50041

> "*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)

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 to enable a court to arrive at a prima facie conclusion.*

2026:HHC:50041

> *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.
>
> 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 status report shows that the police had recovered 7.740 grams of heroin from a room occupied by Deepak Verma and Sahib Singh. The police interrogated them, and they named Anuj

Sirkeck, who was arrested. Anuj Sirkeck and Sahib Singh named the petitioner as the person who had supplied heroin to them. Therefore, the prosecution is relying upon the statement made by the co-accused to connect the petitioner to the crime. 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. Thus, the statement made by the co-accused is insufficient to connect the petitioner to the commission of a crime.

13. The prosecution is also relying upon the payment of ₹26,000/- to the petitioner by UPI. However, that is not sufficient. It was laid down by the Kerala High Court in ***Amal E vs State of Kerala 2023:KER:39393*** that financial transactions are not sufficient to connect the accused with the commission of a crime. It was observed:

> "From the perusal of the case records, it can be seen that, apart from the aforesaid transactions, there is nothing to show the involvement of the petitioners. It is true that the documents indicate the monetary transactions between the petitioners and some of the accused persons, but the question that arises is whether the said transactions were in connection with the sale of Narcotic drugs. To establish the same, apart from the confession statements of the accused, there is nothing. However, as it is an aspect to be established during the trial, I do not intend to enter into any finding at this stage, but the said aspect is sufficient to record the satisfaction of the conditions contemplated under section 37 of the NDPS Act, as the lack of such materials evokes a reasonable doubt as to the involvement of the petitioner."

14. Therefore, the petitioner cannot be detained in custody because of the financial transaction between him and the co-accused.

15. It was submitted that the petitioner has criminal antecedents, and he would indulge in the commission of a similar offence in case of his release on bail. This submission will not help the prosecution because, *prima facie,* the police have failed to connect the petitioner to the commission of the crime. 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 relevant when the accused makes out a *prima facie* case for the grant of bail. 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 the 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."

16. Thus, the petitioner cannot be detained in custody because of the criminal antecedents.

17. The status report specifically mentions that the police have filed the charge-sheet before the Court, which means that the

petitioner's custody is not required. Hence, there is a force in the submission made on the petitioner's behalf that no fruitful purpose would be served by detaining him in custody.

18. The petitioner asserted that he is a permanent resident of District Mohali (Pb), which was not stated to be incorrect in the status report. Therefore, the petitioner has roots in the society, and there is no chance of his absconding.

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

2026:HHC:50041

(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 the right to file a petition for cancellation of the bail.

21. The petition is disposed of and so are the miscellaneous applications, if any.

22. A copy of this order be sent to the Jail Superintendent, District Jail Kaithu, Shimla, District Shimla, H.P. and the learned Trial Court by *FASTER.*

23. 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.

19th November, 2026.
(Ravinder)

RAVINDER KUMAR
Digitally signed by RAVINDER KUMAR
DN: C=IN, O=HIGH COURT OF HIMACHAL PRADESH SHIMLA, PhoneNumber=8894891e7dae90f163e34d7eeae420b13af13632044ab0e0f5c87077dc, PostalCode=171001, S=Himachal Pradesh, SERIALNUMBER=46cc63c5d95d14ce189623eacdb6cb9ef2c5538035374f53c4ee637cbebaff, CN=RAVINDER KUMAR
Reason: I am the author of this document
Location:
Date: 2026-11-19 16:41:50