IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP (M) No. 2185 of 2026
Reserved on: 20.11.2026
Date of Decision: 25.11.2026

Ranjana Devi ...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 N.K. Thakur, Senior Advocate, with Mr Divya Raj Singh, 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. 149 of 2026, dated 08.09.2026, registered at Police Station, Amb, District Una, H.P., for the commission of offences punishable under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act).

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

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2. Briefly stated, the facts giving rise to the present petition are that the police noticed a person walking towards the railway station in a state of intoxication on 08.09.2026 at about 4:25 PM. The police apprehended him, and he identified himself as Shubham. He disclosed that he was going towards the house of Nishant Kumar to procure the heroin. The police associated lady constables and independent witnesses and proceeded towards the house of Nishant Kumar. The petitioner was found sitting on the staircase of the house. The police searched the house and recovered 1.53 grams of contraband from the petitioner's room and 16.15 grams from the room occupied by Nishant Kumar and Vishal. The police arrested the occupants of the house. The investigation is complete, and the charge sheet has been filed before the Court. No fruitful purpose would be served by detaining the petitioner in custody. 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 found one person going towards the Railway Station on 08.09.2026 at about 4:25 PM, who appeared to be intoxicated. The police apprehended him, and he identified

himself as Shubham. He disclosed that Nishant Kumar (co-accused) and Ranjana Devi (the present petitioner) sell heroin from their house, and he was going to their house to purchase the heroin. The police reduced the information into writing and sent it to the Supervisory Officer. The police joined Mela Ram and Mithu Ram as independent witnesses and called lady police officials from the police station. Lady Constable Ritu and LHC Reena came to the spot and joined the police party. The police went to the petitioner's house, where she was found sitting on the staircase. The police searched the house in her presence and recovered one plastic pouch containing 1.53 grams of heroin. The police also found 16.15 grams of heroin in a room occupied by Nishant Kumar and Vishal. The police seized the heroin and arrested the occupants of the house. The police checked the call detail records and financial transactions and found transactions between the accused, Neelam Rani and Ismail. The police arrested Neelam Rani and Ismail. It was also found that the accused were in touch with each other, and the petitioner had transferred ₹7,200/- into the account of Neelam Rani and ₹1,780/- into the account of Ismail. The heroin was sent to the FSL, and as per the result of the analysis, it was found to be a

sample of Diacetylmorphine (heroin). The petitioner sells heroin, which harms the young generation of society. The charge sheet has been filed before the Court after the completion of the investigation. Hence, the status report.

4. I have heard Mr N.K. Thakur, learned Senior Counsel, assisted by Mr Divya Raj Singh, learned counsel for the petitioner, and Mr Ajit Sharma, learned Deputy Advocate General, for the respondent-State.

5. Mr N.K. Thakur, learned Senior Counsel for the petitioner, submitted that the petitioner is innocent and was falsely implicated. As per the prosecution case, the police had recovered 1.53 grams of heroin from the room occupied by the petitioner and 16.15 grams of heroin from the room occupied by Nishant and Vishal. The police illegally clubbed the heroin and stated that the petitioner was found in possession of 17.68 grams of heroin. The quantity of heroin stated to have been recovered from the petitioner's possession is a small quantity, and the petitioner is entitled to bail as a matter of right. Hence, he prayed that the present petition be allowed and the petitioner be released on bail.

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6. Mr Ajit Sharma, learned Deputy Advocate General for the respondent-State, submitted that the petitioner is involved in the commission of a heinous offence. The consumption of heroin is harming society, and any leniency shown to the petitioner would encourage similar-minded persons to commit similar offences. 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 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 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*

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

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10. The status report shows that the police searched the petitioner's house and recovered 1.53 grams and 16.15 grams of heroin. It was laid down by the Hon'ble Supreme Court in ***Madan Lal versus State of H.P. (2003) 7 SCC 465: 2003 SCC (Cri) 1664: 2003 SCC OnLineSC 874***, that where persons were found in a vehicle, all of them would be deemed to be in conscious possession of the heroin, and the burden is upon them to rebut the presumption. It was observed: -

> "19. Whether there was conscious possession has to be determined with reference to the factual backdrop. The facts which can be culled out from the evidence on record are that all the accused persons were travelling in a vehicle, and as noted by the trial court, they were known to each other, and it has not been explained or shown as to how they travelled together from the same destination in a vehicle which was not a public vehicle.
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> 20. Section 20(b) makes possession of contraband articles an offence. Section 20 appears in Chapter IV of the Act, which relates to offences for possession of such articles. It is submitted that to make the possession illicit, there must be conscious possession.
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> 21. It is highlighted that unless the possession was coupled with the requisite mental element, i.e., conscious possession and not mere custody without awareness of the nature of such possession, Section 20 is not attracted.
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> 22. The expression "possession" is a polymorphous term that assumes different colours in different contexts. It may carry different meanings in contextually different backgrounds. It is impossible, as was observed in the ***Supdt. & Remembrancer of Legal Affairs, W.B. v. Anil Kumar***

Bhunja [(1979) 4 SCC 274: 1979 SCC (Cri) 1038: AIR 1980 SC 52] to work out a completely logical and precise definition of "possession" uniformly applicable to all situations in the context of all statutes.

23. The word "conscious" means awareness of a particular fact. It is a state of mind which is deliberate or intended.

24. As noted in ***Gunwantlal v. State of M.P. [(1972) 2 SCC 194: 1972 SCC (Cri) 678: AIR 1972 SC 1756],*** possession in a given case need not be physical possession but can be constructive, having power and control over the article in the case in question, while the person to whom physical possession is given holds it subject to that power or control.

25. The word "possession" means the legal right to possession (see ***Heath v. Drown [(1972) 2 All ER 561: 1973 AC 498: (1972) 2 WLR 1306 (HL)]***). In an interesting case, it was observed that where a person keeps his firearm in his mother's flat, which is safer than his own home, he must be considered to be in possession of the same. (See ***Sullivan v. Earl of Caithness [(1976) 1 All ER 844: 1976 QB 966: (1976) 2 WLR 361 (QBD)]***.)

26. Once possession is established, the person who claims that it was not a conscious possession has to establish it because how he came to be in possession is within his special knowledge. Section 35 of the Act gives a statutory recognition of this position because of the presumption available in law. Similar is the position in terms of Section 54, where a presumption is also available to be drawn from possession of illicit articles.

27. In the factual scenario of the present case, not only possession but conscious possession has been established. It has not been shown by the accused-appellants that the possession was not conscious in the logical background of Sections 35 and 54 of the Act."

11. A similar principle would apply to the present case. The petitioner is the owner of the house, and the police were *prima facie* justified in clubbing the heroin recovered from the house to the occupants of the house. Therefore, the submission that the petitioner was in possession of a small quantity and is entitled to bail as a matter of right cannot be *prima facie* accepted.

12. The status report specifically mentions that the police have completed the investigation and filed the charge sheet before the Court, which means that the petitioner's custodial interrogation is not required. The status report has not mentioned any reason for the continued detention of the petitioner. Thus, the submission that no fruitful purpose would be served by detaining the petitioner in custody has to be accepted as correct.

13. The petitioner had specifically asserted in the petition that no other criminal case was registered against her. This was not stated to be incorrect in the status report filed by the police. Therefore, the petitioner does not have any criminal antecedents, and she is a first-time offender. Being a first-time

offender, she is entitled to reform herself, and keeping her in custody would make the chances of her reformation quite bleak. Therefore, the further detention of the petitioner is not justified.

14. It was submitted that the petitioner was found in touch with the co-accused and she had transferred money to the accounts of the co-accused, which shows her involvement in the commission of the crime. This submission will not help the prosecution. 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."

15. The police also relied upon the call detail record to conclude that the petitioners had talked to the co-accused. This is also not sufficient. It was laid down by this Court in ***Dinesh Kumar @ Billa Versus State of H.P. 2020 Cri. L.J. 4564,*** that the phone calls are not sufficient to deny bail to a person.

16. It was laid down by this Court in ***Saina Devi vs State of Himachal Pradesh 2022 Law Suit (HP) 211*** that the petitioner cannot be kept in custody based on the call detail records. 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.

> **[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.

17. A similar view was taken by this Court in ***Dabe Ram vs. State of H.P., Cr.MP(M) No. 1894 of 2023, decided on 01.09.2023, Parvesh Saini vs. State of H.P., Cr.MP(M) No. 2355 of 2023, decided on 06.10.2023*** *and* ***Relu Ram vs. State of H.P., Cr.MP(M) No. 1061 of 2023, decided on 15.05.2023.***

18. Therefore, the petitioner cannot be detained in custody because of the financial transactions and call detail records amongst the co-accused.

19. No other point was urged.

20. In view of the above, the present petition is allowed, and the petitioner is ordered to be released on bail subject to her 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 they 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 her passport, if any, to the Court; and

(v) The petitioner will furnish her 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.

21. 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.

22. The petition stands accordingly disposed of. A copy of this order be sent to the Jail Superintendent, District Jail, Una, 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

25th November, 2026
(Chander)

CHANDER SHEKHAR

Digitally signed by CHANDER SHEKHAR
Date: 2026.11.25 12:37:00 +0530