IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No 843 of 2026
Reserved on : 24.06.2026
Date of Decision: 25.06.2026

Komal Chand ....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 Jai Dev, Advocate.
For the Respondent/State	:	Mr Jitender K. Sharma, Additional Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for regular bail in FIR No. 49 of 2026, dated 24.04.2026, registered at Police Station BSL Colony, Sundernagar, District Mandi, H.P., for the commission of an offence punishable under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

---

[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 had searched a bus bearing registration number HR-55GV-6329 and recovered 254 grams of Charas from the petitioner. The police seized the charas and arrested the petitioner. The allegation against the petitioner is false, and no case is made out against him. The petitioner has been in custody since 23.04.2026. The police have completed the investigation, and the petitioner's custody is not required. The petitioner was only travelling as a passenger in a Haryana Roadways bus and had no connection to the contraband recovered by the police. Therefore, 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 set up a Nakka on 23.04.2026, they intercepted a bus bearing registration number HR-55GV-6329 and found the petitioner occupying seat number 50. The police enquired about his name and address. He got frightened and tried to push a backpack kept between his legs. The police joined the driver, Virender Saharan, the conductor, Anil Kumar, and HHC, Ashok Kumar in the investigations. The petitioner identified himself as Komal Chand. The police checked the backpack and

found 254 grams of cannabis in it. The police seized the cannabis and arrested the petitioner. The cannabis was sent to SFSL, Junga, and as per the result of analysis, it was found to be an extract of cannabis and a sample of Charas. The petitioner has committed a heinous offence. which is adversely affecting society. The petitioner would intimidate the witnesses and indulge in the commission of a similar offence if released on bail. Hence, it was prayed that the present petition be dismissed.

4. I have heard Mr Jai Dev Thakur, learned counsel for the petitioner and Mr Jitender K. Sharma, Additional Advocate General, for the respondent/State.

5. Mr Jai Dev Thakur, learned counsel for the petitioner, submitted that the petitioner is innocent and he has been falsely implicated. There is no material to connect the petitioner to the commission of the crime. The petitioner is a first offender and has no criminal antecedents. He would abide by the terms and conditions that the Court may impose. 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 Jitender K. Sharma, learned Additional Advocate General, for the respondent/State, submitted that the petitioner was found in possession of 254 grams of charas, which is a huge quantity and could not have been meant for the self-consumption. The consumption of narcotics is adversely affecting society, and the petitioner should not be released on bail. The petitioner would indulge in the commission of a similar offence and intimidate the witnesses if released on bail. Hence, he prayed that the present petition be dismissed.

7. I have given a considerable thought to the submissions made at the bar and have gone through the record 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 the 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 the 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*:

(*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 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. As per the status report, the petitioner was found in possession of 254 grams of charas, which is more than a small quantity, but less than a commercial quantity; therefore, the rigours of Section 37 of the NDPS Act do not apply to the present case. The police have completed the investigation and filed a charge sheet before the Court. This shows that the police do not require the petitioner for further investigation. The Learned Trial Court is likely to take some time to complete the trial, keeping in view the huge pendency of the cases before the Courts in Himachal. The petitioner cannot remain in custody for an indefinite period till the conclusion of the trial.

11. It was submitted that the petitioner is likely to abscond and influence the witnesses in case of release on bail. These apprehensions can be removed by imposing conditions. The police would have a right to seek the cancellation of bail in case the petitioner violates any of the conditions; however, bail cannot be denied based on apprehension alone.

12. The status report does not indicate that the petitioner has criminal antecedents. Therefore, the petitioner deserves a chance to reform himself. The continued detention of the petitioner in custody will make the chance of reformation bleak, as he will come in contact with hardened criminals.

13 It has been asserted that the petitioner is a resident of District Mandi. This was not stated to be incorrect in the status report filed by the State. Therefore, the petitioner has roots in society, and there is no chance of his absconding.

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 bonds 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 the 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, District 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 June, 2026
(ravinder)

RAVINDER KUMAR
Digitally signed by RAVINDER KUMAR
DN: C=IN, O=HIGH COURT OF HIMACHAL PRADESH SHIMLA, PI=pan=35ed3df93c6991a7dee90f163e34d7ecaa4292a13af13632d4ab0af0fc4870f7dc, PostalCode=171001, S=Himachal Pradesh, SERIALNUMBER=f6cc63c55495d14ce1862faacdb6c68e02c553803537a2f53c64eb37cfebaf0, CN=RAVINDER KUMAR
Reason: I am the author of this document
Location:
Date: 2026-06-25 10:21:00