

Balwant Singh and another vs. State of H.P.

**Cr.M.P(M) No. 994 of 2026 in
Cr. Appeal (C-SB) No. 56 of 2026
Reserved on 07.04.2026.**

01.06.2026 Present:

Ms Shashi Kiran Negi, Advocate, for the appellants.

Mr Ajit Sharma, Deputy Advocate General, for the respondent/State.

The appellants/applicants have filed the present application seeking the suspension of the sentence imposed by the learned Special Judge, Rohru, District Shimla (learned Trial Court) vide order dated 20.11.2025. It has been asserted that the applicants/appellants were convicted of the commission of offences punishable under Section 22 read with Section 29 of the NDPS Act and were sentenced to undergo imprisonment for four years, pay a fine of ₹20,000/-, and in default of payment of fine to undergo simple imprisonment for one year. The appellants/applicants have filed an appeal against the judgment and order passed by the learned Trial Court. Applicant No. 1 is suffering from joint problems and is undergoing treatment from Indira Gandhi Medical College and Hospital, Shimla and the hospital located at Solan. The applicants have fair chances of acquittal. They would abide by the terms and conditions that the Court may impose. Hence, the application.

2. The application is opposed by filing a reply, making a preliminary submission regarding the lack of maintainability. It was asserted that 70 tablets of Nitrazepam (each containing 10 mg) were recovered from the exclusive and conscious possession of the applicants. The prosecution proved its case beyond a reasonable doubt, and the applicants/appellants were rightly convicted and sentenced by the learned Trial Court. The applicants have committed an offence against society. There is no material to show that the applicants would be acquitted. Hence, it was prayed that the present application be dismissed.

3. I have heard Ms Shashi Kiran Negi, learned counsel for the applicants/appellants and Mr Ajit Sharma, learned Deputy Advocate General, for the respondent/State.

4. Ms Shashi Kiran Negi, learned counsel for the appellants/applicants, submitted that the learned Trial Court had imposed a disproportionate sentence upon the applicants. The appeal was filed in the year 2026 and is not likely to be taken up for hearing soon. The applicant No.1 is suffering from joint problems and is required to visit the doctor for treatment. Hence, she prayed that the present application be allowed and the sentence be suspended during the pendency of the appeal. She relied upon the

judgment in *Rajesh Kumar vs. State (Govt. of NCT), Delhi, CRL.A. 347/2024, decided on 21.03.2025* in support of her submissions.

5. Mr Ajit Sharma, learned Deputy Advocate General, for the respondent/State, submitted that the applicants were found in conscious and exclusive possession of 70 tablets of Nitrazepam. The offence involving drugs affects society adversely. Therefore, he prayed that the present application be dismissed.

6. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

7. The judgment of the learned Trial Court shows that the applicants were found in possession of 38.5 grams of Nitrazepam. The Central government has notified 500 grams of Nitrazepam as the commercial quantity, which means that a person possessing 500 grams of Nitrazepam can be sentenced to ten years imprisonment. Applying the principle of proportionality, a person possessing 38.5 grams could not have been *prima facie* sentenced to undergo imprisonment for four years. Therefore, the applicants have an arguable case in their favour.

8. As per the certificate of imprisonment, the applicants have undergone four months of imprisonment

as of 21.03.2026. Considering the quantity found in possession of the applicants, they have undergone a substantial part of the imprisonment that can be awarded to them after applying the principle of proportionality. They filed an appeal before this Court in the year 2026, and their appeal is not likely to be taken up for hearing before they have undergone a major part of the imprisonment awarded to them. Therefore, they are entitled to suspension of sentence pending the hearing of their appeal on merit.

9. In view of the above the present application is allowed and the substantive sentence of imprisonment awarded to the applicants is ordered to be suspended subject to deposit of fine and furnishing of personal bonds of ₹25,000/- each with one surety in the like amount to the satisfaction of learned Trial Court within a month from today with an undertaking to appear before this Court as and when called upon to do so and surrender before the learned Trial Court to serve sentence, in case of dismissal of the present appeal. A copy of this order be sent to the learned Trial Court for information and necessary action.

10. The applicants/appellants are permitted to produce a copy of this order, downloaded from the Webpage of the High Court of Himachal Pradesh, before

the authorities concerned, and the said authority shall not insist on the production of a certified copy, but if required, may verify from the passing of the order from the website of the High Court of H.P.

11. Learned Trial Court is directed to transmit the bail bonds, so furnished by the applicant before it, for placing them on record.

Cr. Appeal (C-SB) No. 56 of 2026

12. List for hearing in due course.

(Rakesh Kainthla)
Judge

1st June, 2026
(Nikita)