

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) Nos. 3042 & 3054 of 2025

Reserved on: 16.01.2025

Date of Decision: 23.01.2026.

1. Cr.MP(M) No. 3042 of 2025

Sachin ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

2. Cr.MP(M) No. 3054 of 2025

Sorabh ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

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Hon'ble Mr Justice Rakesh Kainthla, Vacation Judge.

Whether approved for reporting?¹ No.

For the Petitioner(s) : Mr Rajesh Verma, Advocate, in both the petitions.

For the Respondents/State: Mr Lokender Kutlehira, Additional Advocate General, for the respondents/State, in both the petitions.

Rakesh Kainthla, Vacation Judge

The petitioners have filed the present petition for seeking regular bail, in FIR No. 282 of 2025 dated 22.11.2025

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

registered at Police Station Sadar, Chamba, H.P., for the commission of offences punishable under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and Section 221 and 132 of Bhartiya Nyaya Sanhita (BNS). Since both petitions have arisen out of the same FIR; therefore, they are being taken up together for convenience.

2. It has been asserted that, as per the prosecution, the police were checking the vehicles on 22.11.2025 at 7 AM. They received secret information that Binta Mahajan and her son, Aryan Mahajan, were selling heroin, and a huge quantity of heroin could be recovered by searching their house. The police went to their house after completing the formalities and recovered one weighing machine, two burnt foil papers, one folded and burnt ₹20 currency notes and one syringe. The police also recovered 14 mobile phones and 20.65 grams of heroin. The police arrested the occupants and seized the heroin. The police found that the petitioner, Sachin, had made a transaction of ₹57,260/- and the petitioner, Sorabh, had made a transaction of ₹22,750/- with Aryan Mahajan. The police arrested the petitioners based on the financial transactions. The petitioners are permanent residents of Chamba. They have roots in society,

and there is no chance of their absconding. They would abide by the terms and conditions that the Court may impose. Hence, it was prayed that the present petition be allowed and the petitioners be released on bail.

3. The petitions are opposed by filing a status report asserting that the police were checking the vehicles on 22.11.2015. They received secret information that Binta Mahajan and her son Aryan Mahajan were selling heroin, and in case of a search of their house, a huge quantity of heroin could be recovered. The information was sent to the Additional Superintendent of Police, Chamba and authorization letter was issued by the Additional Superintendent of Police, Chamba. The police associated Seema Kumari and Mahender Kumar and went to the house of Binta Mahajan. The police found Aryan Mahajan in the house. The police searched the house and recovered an electronic weighing machine, two burnt foil papers, one burnt and one folded currency note of ₹20/- and one syringe. Binta Mahajan also came to the spot. The police conducted a further search of the house and recovered 14 mobile phones, jewellery, 20.65 grams of heroin, and ₹2,33,377/- in cash. The police seized all the articles and arrested the occupants. The police checked their accounts

and found that various persons, including the petitioners, had transferred the money to their accounts. The police arrested those persons, including the petitioners. The petitioners, Sachin Kumar and Sorabh, had transferred ₹57,260/- and ₹22,750/- to the accounts of Aryan Mahajan and Binta Mahajan on different dates. The petitioner, Sachin, had talked to Aryan Mahajan 113 times between 02.06.2025 and 20.07.2025 and the petitioner, Sorabh, had talked to Aryan Mahajan 175 times between 07.06.2025 and 20.07.2025. Hence, the status report.

4. I have heard Mr Rajesh Verma, learned counsel for the petitioners and Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State.

5. Mr Rajesh Verma, learned counsel for the petitioners, submitted that the petitioners are innocent and they were falsely implicated. There is no evidence against them except the financial transaction and the call detail record, which is not sufficient to connect them to the commission of the crime. The petitioners are the permanent residents of Chamba. The police have added Section 27A of the NDPS Act, but the mere purchase of the narcotics does not amount to financing. Therefore, he prayed that

the present petitions be allowed and the petitioners be released on bail.

6. Mr Lokender Kutlehria, learned Additional Advocate General, for the respondent/State, submitted that the petitioners are involved in the sale/purchase of heroin, which adversely affects the young generation. No leniency should be shown to the petitioners. 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

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)*

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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)

“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. The status report mentions that the police checked the bank accounts of the main accused and found that the petitioners had transferred various amounts to the main accused. This is not sufficient to connect the petitioners to the commission of a crime.

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.”

11. The police also relied upon the call detail record to conclude that the petitioner was involved in the commission of crime. 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.

12. It was laid down by this Court in *Saina Devi vs State of Himachal Pradesh 2022 Law Suit (HP) 211* that where the police have no material except the call details record and the disclosure

statement of the co-accused, the petitioner cannot be kept in custody. 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.

[17] Since the existence of CDR details of 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 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.

13. 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.

14. Therefore, the petitioners cannot be *prima facie* connected to the commission of a crime merely because of financial transactions and call detail records.

15. The police have also added Section 27A of the NDPS Act, which deals with the financing of the drugs. The term financing was explained by the Bombay High Court in *Rhea Chakraborty v. Union of India 2021 Cr LJ 248* as under: -

“66. Section 27A is much wider if sub-clause (iv) of Section 2(viia) is taken into account. This sub-clause (iv) of Section 2(viia) takes in its sweep all the remaining activities which are not mentioned in sub-clauses (i),(ii) & (iii). This covers just about every activity that can be described as dealing in narcotic drugs or psychotropic substances. The interpretation of Section 27A should not be stretched to the extent of rendering the classification of sentences depending on the quantities in penal Sections 20, 21, 22 and 23 otiose.

67. Sub-clause (viia) of Section 2 of the NDPS Act is an inclusive definition. The inclusive part mentions financing, abetting, conspiring and harbouring. The financing and harbouring parts are specifically made punishable under Section 27A.

68. *The activities mentioned in Section 2(viia)(iii) and Section 8(c) refer to sale, purchase, export, import, etc. All these activities involve monetary transactions. For every sale or purchase, there can be a use of money. But that will not mean that either of the parties has “financed” the transaction. Such sales and purchases are separately prohibited and made punishable under Section 8(c), read with Section 20 and other similar Sections. Therefore,*

“financing” is something more than just paying for purchases and other activities involving contraband as defined under Section 8(c). Contravention of that Section and indulging in activities mentioned in Sections 20, 21, 22 and 23 incur punishment depending on the quantity of the contraband.

69. For interpreting Section 27A harmoniously with the Scheme of the Act and other Sections, it is necessary to go to the Statement of Objects and Reasons for incorporating this Section in the Act w.e.f. 29.5.1989. The Statement of Objects and Reasons of the 1989 Amendment, which is reproduced hereinbefore, mentions that India was facing a problem of transit traffic in illicit drugs. The spillover from such traffic was causing problems of abuse and addiction. Therefore, a need was felt to amend the Law to further strengthen it.

70. Thus, the aim was to control the traffic in illicit drugs as the spillover from such traffic was causing problems of abuse and addiction. The Legislature wanted to attack the basic cause of the illicit traffic of drugs. The prohibitory Section 8 already existed at that time. Therefore, a separate Section 27A was introduced to check these activities, which were the root cause of illicit traffic. “Financing” and “harbouring” such activities were, therefore, specifically mentioned under Section 27A.

71. “Financing” is not defined under the Act. The Concise Oxford Dictionary defines the word “finance” as “(1) the management of (esp. public) money, (2) monetary support for an enterprise, (3) (in pl.) the money resources of a state, company, or person, to provide capital for (a person or enterprise)”.

72. Black's Law Dictionary gives the meaning of the word “finance” as “to raise or provide funds”.

73. Thus, *“financing” as generally understood is offering monetary support or providing funds.*

74. Therefore, simply providing money for a particular transaction or other transactions will not be financing of that activity. Financing will have to be interpreted to mean to provide funds for either making that particular activity operational or for sustaining it. It is the financial support that directly or indirectly

causes the existence of such illicit traffic. The word “financing” would necessarily refer to some activities involving illegal trade or business

75. The allegations against the Applicant of spending money in procuring drugs for Sushant Singh Rajput will not, therefore, mean that she had financed illicit traffic.” (emphasis supplied)

16. Thus, the purchase of the drugs will not amount to financing, and the petitioners cannot be, *prima facie*, held liable for the commission of an offence punishable under Section 27A of the NDPS Act.

17. There is no other material to connect the petitioners to the commission of a crime.

18. In view of the above, the present petitions are allowed, and the petitioners are ordered to be released on bail, subject to their furnishing bail bonds in the sum of ₹1,00,000/- with one surety each in the like amount to the satisfaction of the learned Trial Court. While on bail, the petitioners will abide by the following conditions: -

- (I) *The petitioners will not intimidate the witnesses, nor will they influence any evidence in any manner whatsoever.*
- (II) *The petitioners shall attend the trial on each and every hearing and will not seek unnecessary adjournments.*
- (III) *The petitioners 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 petitioners will surrender their passports, if any, to the Court; and*
- (V) The petitioners will furnish their 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.*

19. It is expressly made clear that in case of violation of any of these conditions, the prosecution will have the right to file petitions for cancellation of the bail.

20. The petitions stand accordingly disposed of. A copy of this order be sent to the Jail Superintendent of District Jail, Chamba and the learned Trial Court by FASTER.

21. The observations made hereinabove are regarding the disposal of these petitions and will have no bearing whatsoever on the case's merits.

(Rakesh Kainthla)
Vacation Judge

23rd January, 2026
(Nikita)