

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MP(M) No. 276 of 2026****Reserved on: 18.3.2026****Date of Decision: 22.4.2026.**

Akhilesh Kumar**.... Petitioner****Versus****State of HP****.... Respondent**

Coram***Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting?¹ No.*****For the Petitioner : Mr Ajay Kochhar, Senior Advocate, with Mr Varun, Advocate.****For the Respondent/State : Mr Lokender Kutlehria, Additional Advocate General.**

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in a complaint bearing Registration No. 45 of 2025 titled State of H.P. versus Akhilesh Kumar and M/s YL Pharma pending adjudication before the learned Special Judge, Nalagarh, District Solan, H.P.

2. It has been asserted that M/s Y.L. Pharma is a firm registered with the Registrar of Firms and is engaged in the

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

business of drug manufacturing. Dheeraj Kumar is endorsed as a manufacturing chemist. The Drug Inspector inspected the premises of M/s Y.L. Pharma on 1.11.2025. He noticed that the firm was carrying out manufacturing activities in violation of the stop manufacturing order dated 29.3.2025. He seized samples of seven drugs stated to be manufactured by M/s Y.L. Pharma, which included 19 capsules of Pregabalin. The Drug Inspector arrested the petitioner on 15.11.2025 on the allegation that the capsules of Pregabalin stated to be manufactured by M/s SSN Pharma Tech, Plot No.324-325, Industrial Estate, Sadam, Sikkim, were spurious because no such pharmaceutical manufacturing unit existed in the State of Assam. A complaint was filed before the learned Trial Court after the completion of the investigation. There is a dispute amongst the partners, and the work of manufacturing the drugs was being looked after by the authorised chemist. The complaint does not mention that the petitioner was in charge and responsible for the affairs of the firm, which is an essential requirement under Section 34 of the Drugs and Cosmetics Act. The petitioner has been behind bars since 15.11.2025. The complaint has been filed before the Court, and no fruitful purpose would be served by detaining the

petitioner in custody. The trial has not commenced, and the petitioner's right to a speedy trial is being violated. 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 information regarding a Not of Standard Quality (NSQ) was received from the State Drugs Controller, Rajasthan, on 31.10.2025, about the drug sample Levocetirizine Dihydrochloride Tablets (Wincet-L), Batch No. YLT25023, manufacturing 03/2025, expiry 02/2027. The Assistant Drugs Controller-cum-Licensing Authority, Baddi inspected the premises of M/s Y.L. Pharma on 1.11.2025 in the presence of independent witnesses and found that the firm had carried out manufacturing activities in violation of the stop manufacturing order dated 29.3.2025. Four samples of drugs and loose red capsules purported to contain Pregabalin 300 mg were drawn for analysis after completing the formalities. Various drug products purportedly manufactured by M/s SSN Pharma Tech, Plot No. 324-325, Industrial Estate, Sadam, Sikkim, along with packing materials and stereotypes used for printing batch number, were recovered from the premises. The petitioner disclosed himself to

be a partner of the firm and an authorised signatory. He produced the sales record of various products manufactured by the firm. State Drugs Controller, Sikkim, informed that no firm under the name and style of M/s SSN Pharma Tech, Plot No. 324-325, Industrial Estate Sadam, Sikkim existed in Sikkim. Therefore, the drugs recovered from the premises were spurious. The petitioner was arrested on 15.11.2025. Further investigations were conducted, various persons were arrested, and a complaint was filed against the petitioner and M/s Y.L. Pharma on 16.1.2026. No intimation was received regarding the retirement or the induction of any partner. The dispute amongst the partners is a matter between them. The prosecution was lodged strictly as per the law. The further investigation is to be conducted, and the mastermind behind the manufacture and sale of spurious drugs is to be arrested. The petitioner would tamper with the evidence and would indulge in the commission of similar illegal activities if released on bail. Hence, it was prayed that the present petition be dismissed.

4. I have heard Mr Ajay Kochhar, learned Senior Counsel, assisted by Mr Varun Sharma, learned counsel for the

petitioner and Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State.

5. Mr Ajay Kochhar, learned Senior Counsel for the petitioner, submitted that the petitioner is sought to be arrayed as an accused by invoking the provisions of Section 34 of the Drugs Act. However, there is no averment in the complaint that the petitioner is in charge and responsible for the firm for its affairs, which is necessary to hold him liable. There is no *prima facie* case against the petitioner. The Drug Inspector has filed the complaint before the learned Trial Court, and 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 Lokender Kutlehria, learned Additional Advocate General for the respondent/State, submitted that the petitioner is involved in the manufacture of the spurious drugs, which adversely affect the health of the people. Investigation is continuing. The petitioner would indulge in the commission of a similar offence if released on bail; 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 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)

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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 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. 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 copy of the complaint (Annexure P-2) nowhere mentions that the petitioner is in charge and responsible for the affairs of the firm. It mentions that the firm had carried out production despite the stop manufacturing order and had contravened various provisions of the Drugs and Cosmetics Act. There was sufficient material available on record to proceed against the firm and the present petitioner. It was laid down by this Court in *M/s Symbiosis Pharmaceuticals Private Limited Vs. Union of India 2024:HHC:5394* that the complainant has to aver that the accused was in-charge of and was responsible for the company for the conduct of its business, and in the absence of any such averment, the partner of the firm cannot be held liable. In the present case, a necessary averment is lacking, and the liability of the petitioner is, *prima facie*, suspect in the absence of the necessary averment.

12. It is undisputed that the complaint has been filed before the Court and the trial has not commenced. The petitioner was arrested on 25.11.2025, and further detention of the petitioner in custody is not justified.

13. It was submitted that the petitioner would indulge in the commission of a similar offence, and he would intimidate the witnesses if released on bail. This apprehension can be removed by imposing conditions, and is not sufficient to deny bail to the petitioner.

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 of Sub-Jail, Nalagarh, District Solan, 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

22nd April, 2026
(Chander)