

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****Cr. MP(M) No. 1317 of 2026****Decided on: 13.8.2026**

Ravi Kant Nasa 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 Ms Swati Sharma, Advocate.

For the Respondent/State : Mr Jitender Sharma, Additional Advocate General.

Rakesh Kainthla, Judge (oral)

The petitioner has filed the present petition for seeking regular bail in FIR No. 35 of 2025, dated 7.3.2025, registered for the commission of offences punishable under Sections 22, 25 and 29 of the Narcotic Drugs and Psychotropic

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



Substances Act (hereinafter referred to as 'the NDPS Act') at Police Station Kangra, District Kangra, H.P.

2. It has been asserted that, as per the prosecution, the police intercepted a vehicle bearing registration No. HP-68A-4199 on 06.03.2025. The driver identified himself as Rishabh. The person sitting beside the driver identified himself as Rohit, and the person sitting on the rear seats identified themselves as Abhishek and Sachin. The police searched the vehicle and recovered 803.88 grams of tramadol. The occupants of the vehicle could not produce any document for transporting the tramadol. The police seized tramadol and arrested the occupants of the vehicle. The police also recovered 283 tablets during the search of the house of Rohit on 07.03.2025. Rohit disclosed that he had purchased drugs from the petitioner. Rohit had talked to the petitioner between 06.02.2025 and 22.02.2025. He had paid ₹35,000/- in cash and ₹200/- by UPI to the petitioner. The police arrested the petitioner. The petitioner had filed Cr.MP(M) No.1262 of 2025, which was dismissed by the Court on 28.6.2025. The petitioner filed a Special Leave Petition before the Hon'ble Supreme Court of India, but it was also dismissed. The matter



was listed before the learned Trial Court for recording the statements of witnesses with effect from 05.03.2026 till 11.03.2026. The prosecution could only produce two witnesses out of 10 summoned by the Court. The petitioner is cooperating with the progress of the crime, but the police have failed to produce the witnesses. 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 were patrolling on 06.03. 2025. They intercepted a vehicle bearing registration HP-68A-4199. The driver of the vehicle identified himself as Rishabh, the person on the front seat identified himself as Rohit, and the person on the rear seat identified themselves as Abhishek and Sachin. The police searched the vehicle and recovered a bag containing ten boxes of Tramadol. The total weight of the capsules was found to be 803.88 grams. The occupants of the vehicle could not produce any documents for the possession of Tramadol. The police seized the drugs and arrested the occupants of the vehicles. The police recovered 283 tablets during the house search of Rohit on 07.03.2025. Rohit revealed on inquiry that he had purchased the



drugs from the petitioner. He had talked to the petitioner on 06.02.2025, 08.02.2025, 21.02.2025 and 22.02.2025. He also paid ₹200/- to the petitioner by means of Unified Payments Interface (UPI). The police arrested the petitioner. He was found to be the owner of Ravi Medicos. The petitioner revealed that his license was cancelled for possessing prohibited drugs. As per the result of the analysis, the capsules were found to be Tramadol. The petitioner is involved in selling narcotics in the state of HP, which is adversely affecting society. He would indulge in the commission of a similar offence if released on bail. The police have filed the charge sheet before the Court. Hence, it was prayed that the present petition be dismissed.

4. I have heard Mr Ajay Kochhar, learned Senior Advocate assisted by Ms Swati Sharma, learned counsel for the petitioner and Mr Jitender Sharma, learned Additional Advocate General, for the respondent/State.

5. Mr Ajay Kochhar, learned Senior Advocate for the petitioner, submitted that the petitioner was arrested on 29.03.2025. More than one year has elapsed since the petitioner's arrest. The prosecution has only examined two witnesses, and



the petitioner's right to speedy trial is being violated. Hence, he prayed that the present petition be allowed and the petitioner be released on bail. He relied upon the following judgments in support of his submissions: -

- (i) *Rajesh Kumar Vs. State of H.P.* 2026: HHC:26936;
- (ii) *Naveen Kumar Vs. State of HP, Cr.MP(M) No. 2984 of 2025; decided on 2.3.2026*
- (iii) *Shubham Dhani Vs. State of HP* 2026: HHC:4650;
- (iv) *Saurav Negi Vs. State of HP* 2025: HHC:27642;
- (v) *Dayanand Vs. State of HP* 2025: HHC:28476;
- (vi) *Rabi Prakash Vs. State of Odisha* 2023 o Supreme (SC) 707;
- (vii) *Zahur Haider Zaidi Vs. Central Bureau of Investigation* 2019 Supreme (SC) 2354; and
- (viii) *Nitish Adhikary @ Bapan Vs. State of West Bengal, Special Leave to Appeal (Crl.) No(s). 5769 of 2022*

6. Mr Jitender Sharma, learned Additional Advocate General, for the respondent/State submitted that the petitioner had earlier filed a bail petition which was dismissed by this Court. A subsequent bail petition only lies when there is a change in the circumstances. The petitioner has failed to make out any change in the circumstances. He has filed the order sheets dated 06.03.2026, 06.05.2026, 07.05.2026 and 11.05.2026, which do not



depict the correct position. The learned Trial Court has listed the matter w.e.f. 16.11.2026 till 21.11.2026, which shows the concern of the learned Trial Court to expeditiously conclude the trial. The petitioner had abetted the possession of a commercial quantity of Tramadol and the rigours of Section 37 of the NDPS Act apply to the present case. The petitioner has not satisfied the twin conditions laid down under Section 37 of the NDPS Act, and he is not entitled to 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 records carefully.

8. It is undisputed that the petitioner had earlier filed a bail petition before this Court which was registered as Cr.MP(M) No. 1262 of 2025 and was dismissed by this Court on 28.06.2025. The petitioner approached the Hon'ble Supreme Court of India, and the Hon'ble Supreme Court of India dismissed the SLP Criminal Diary No. 40946 of 2025 on 13.10.2025. It was rightly submitted on behalf of the State that a subsequent bail petition only lies when there is a change in the circumstances. It was held



in the *State of Maharashtra. Captain Buddhikota Subha Rao (1989) Suppl. 2 SCC 605*, that once a bail application has been dismissed, a subsequent bail application can only be considered if there is a change of circumstances. It was observed:

“Once that application was rejected, there was no question of granting a similar prayer. That is virtually overruling the earlier decision without there being a change in the fact situation. And when we speak of change, we mean a substantial one, which has a direct impact on the earlier decision and not merely cosmetic changes, which are of little or no consequence. 'Between the two orders, there was a gap of only two days, and it is nobody's case that during these two days, drastic changes had taken place necessitating the release of the respondent on bail. Judicial discipline, propriety and comity demanded that the impugned order should not have been passed, reversing all earlier orders, including the one rendered by Puranik, J., only a couple of days before, in the absence of any substantial change in the fact situation. In such cases, it is necessary to act with restraint and circumspection so that the process of the Court is not abused by a litigant and an impression does not gain ground that the litigant has either successfully avoided one judge or selected another to secure an order which had hitherto eluded him.

9. Similarly, it was held in *Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav (2004) 7 SCC 528* that where an earlier bail application has been rejected, the Court has to consider the rejection of the earlier bail application and then consider why the subsequent bail application should be allowed. It was held:



“11. In regard to cases where earlier bail applications have been rejected, there is a further onus on the court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration, if the court is of the opinion that bail has to be granted then the said court will have to give specific reasons why in spite of such earlier rejection the subsequent bail application should be granted.”

10. A similar view was taken in *State of T.N. v. S.A. Raja*, (2005) 8 SCC 380, wherein it was observed:

9. When a learned Single Judge of the same court had denied bail to the respondent for certain reasons, and that order was unsuccessfully challenged before the appellate forum, without there being any major change of circumstances, another fresh application should not have been dealt with within a short span of time unless there were valid grounds giving rise to a tenable case for bail. Of course, the principles of *res judicata* are not applicable to bail applications, but the repeated filing of bail applications without there being any change of circumstances would lead to bad precedents.

11. This position was reiterated in *Prasad Shrikant Purohit v. State of Maharashtra* (2018) 11 SCC 458, wherein it was observed:

30. Before concluding, we must note that though an accused has a right to make successive applications for the grant of bail, the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.



12. It was held in *Ajay Rajaram Hinge v. State of Maharashtra*, 2023 SCC OnLine Bom 1551, that a successive bail application can be filed if there is a material change in the circumstances, which means a change in the facts or the law. It was observed:

7. It needs to be noted that the right to file successive bail applications accrues to the applicant only on the existence of a material change in circumstances. The sine qua non for filing subsequent bail applications is a material change in circumstances. A material change in circumstances settled by law is a change in the fact situation or law that requires the earlier view to be interfered with or where the earlier finding has become obsolete. However, a change in circumstance has no bearing on the salutary principle of judicial propriety that successive bail applications need to be decided by the same Judge on the merits, if available at the place of sitting. There needs to be clarity between the power of a judge to consider the application and a person's right based on a material change in circumstances. A material change in circumstance creates in a person accused of an offence the right to file a fresh bail application. But the power to decide such a subsequent application operates in a completely different sphere, unconnected with the facts of a case. Such power is based on the well-settled and judicially recognised principle that if successive bail applications on the same subject are permitted to be disposed of by different Judges, there would be conflicting orders, and the litigant would be pestering every Judge till he gets an order to his liking resulting in the credibility of the Court and the confidence of the other side being put in issue and there would be wastage of Court's time and that judicial discipline requires that such matter must be placed before the same Judge, if he is available, for orders. The satisfaction of



material change in circumstances needs to be adjudicated by the same Judge who had earlier decided the application. Therefore, the same Judge needs to adjudicate whether there is a change in circumstance as claimed by the applicant, which entitles him to file a subsequent bail application.”

13. It was submitted that the prosecution has not completed the evidence, which violates the petitioner's right to speedy trial. This submission will not help the petitioner. The petitioner has only filed the copies of the order sheets dated 06.03.2026, 06.05.2026, 07.05.2026 and 11.05.2026. It is not known whether the witnesses were summoned earlier and, if so, whether any witness was examined or not. It is not even known when the charges were framed by the learned Trial Court and, if there was a delay, who was responsible for the delay. It is difficult to say from the order sheets placed on record that there is an inordinate delay in the progress of the trial. Further, the learned Trial Court had fixed the case for the recording of prosecution evidence with effect from 16.11.2026 till 21.11.2026, which shows the concern of the learned Trial Court to expeditiously conclude the trial.

14. In *Rajesh Kumar* (supra), *Naveen Kumar* (supra), *Shubham Dhani* (supra), the quantity was found to be



intermediate, and the further detention of the accused was not found to be justified considering the sentence that could be imposed for possessing such quantity. In *Saurav Negi* (supra), and *Dayanand* (supra), the accused had remained in Jail for 03 years. In *Rabi Prakash* (supra), the accused had remained in Jail for 04 years, and the Court held that prolonged detention justified the grant of bail. In *Zahur Haider Zaidi* (supra), the charges were not framed, and the accused was held entitled to bail. In *Nitish Adhikari* (supra), only one witness was examined within 01 year and 07 months. In the present case, the petitioner had abetted the possession of a commercial quantity of Tramadol; statements of 02 witnesses have been recorded, and the matter is listed for recording the statements of the witnesses on five consecutive dates. Therefore, the cited judgments do not apply to the present case. It was laid down by the Hon'ble Supreme Court in *Union of India vs. Vijin K. Varghese*, 2025: INSC:1316 that bail cannot be granted on the ground of prolonged incarceration without satisfying the twin conditions laid down under Section 37 of the NDPS Act. It was observed: -

“17. The High Court then, on the strength of those premises, recorded a finding that there exist reasonable



grounds to believe that the applicant is not guilty of the alleged offence, treating prolonged incarceration and likely delay as the justification for bail. Such a finding is not a casual observation. It is the statutory threshold under Section 37(1)(b)(ii), which would disentitle the discretionary relief and grant of bail must necessarily rest on careful appraisal of the material available. A conclusion of this nature, if returned without addressing the prosecution's assertions of operative control and antecedent involvement, risks trenching upon the appreciation of evidence which would be in the domain of the trial court at first instance.

18. This Court ordinarily shows deference to the discretion exercised by the High Court while considering the grant of bail. However, offences involving a commercial quantity of narcotic drugs stand on a distinct statutory footing. Section 37 enacts a specific embargo on the grant of bail and obligates the Court to record satisfaction on the twin requirements noticed above, in addition to the ordinary tests under the Code of Criminal Procedure.

19. In the present case, the High Court has not undertaken the analysis of those twin requirements with reference to the material placed by the prosecution. The orders dated 22.01.2025 and 12.03.2025 do not advert to the allegation regarding the respondent's prior involvement in a seizure of narcotic drugs and psychotropic substances only days prior to the seizure forming the subject matter of the present complaint, nor do they engage with the prosecution's assertion as to the respondent's role in arranging, importing, clearing and supervising the consignments. The omission to consider these factors bears directly upon the statutory satisfaction required by Section 37(1)(b)."

15. A similar view was taken in *Union of India v Namdeo Ashruba Nakade SLP (Crl.) 9792/2025, decided on 07.11.2025*, wherein it was observed:



“11. In the present case, this Court finds that though the Respondent-accused was in custody for one year, four months, and charges have not been framed, yet the allegations are serious inasmuch as not only is the recovery much in excess of the commercial quantity, but the Respondent-accused allegedly got the cavities ingeniously fabricated below the trailer to conceal the contraband.

12. Prima facie, this Court is of the opinion that the Respondent-accused is involved in drug trafficking in an organised manner. Consequently, no case for dispensing with the mandatory requirement of Section 37 of the NDPS Act is made out in the present matter.”

16. This position was reiterated in *State of Punjab v. Sukhwinder Singh*, 2026 SCC OnLine SC 671, wherein it was observed: -

9. It is well-settled that in matters involving recovery of contraband in commercial quantity, the twin conditions under Section 37(1)(b)(ii) of the NDPS Act are mandatory and entail no relaxation merely on the ground that the accused has undergone prolonged incarceration during the pendency of trial. The provision casts upon the Court a duty to record, before enlarging an accused on bail, its satisfaction on two cumulative conditions, first, that there exist reasonable grounds for believing that the accused is not guilty of the offence charged; and second, that he is not likely to commit any offence while on bail. The recording of such satisfaction is not a mere formality but a mandatory precondition, the non-observance of which vitiates the grant of bail. This Court, in *Kashif* (supra), has held in no uncertain terms that the recording of satisfaction on the twin conditions under Section 37 is mandatory and not merely directory, and that an order granting bail without such recorded satisfaction stands vitiated and cannot be sustained. The same view stands reiterated in *Lalrintluanga Sailo* (supra).



10. The impugned order, on its own showing, does not record the satisfaction mandated under Section 37(1)(b)(ii) of the NDPS Act. Far from recording such satisfaction, the High Court has gone on to observe that ‘the rigours of Section 37 of the NDPS Act can be diluted bearing in mind the right to a speedy trial.’ Such an approach is plainly contrary to the settled law laid down by this Court and deserves to be set aside on this ground alone. The right to speedy trial, rooted in Article 21 of the Constitution, is undoubtedly a precious Constitutional right. That said, in matters governed by a special enactment such as the NDPS Act, particularly where the recovery is of a commercial quantity, the said right under Article 21 must be exercised within the framework of Section 37 and cannot be pressed into service solely on the ground of delay to override it. The constitutional right under Article 21 and the special provision of law under Section 37, NDPS Act, are to be read harmoniously and not placed in opposition to each other. The High Court, by failing to record its satisfaction on the twin conditions under Section 37, has, in this Court's view, committed an error.

9. The position of law on the grant of bail in matters involving the recovery of a commercial quantity of contraband under the NDPS Act is well settled. Section 37(1)(b)(ii) of the NDPS Act is cast in mandatory terms. Where the Public Prosecutor opposes the bail application, the Court can enlarge an accused on bail only upon recording its satisfaction on two cumulative conditions: first, that there are reasonable grounds for believing that the accused is not guilty of the offence; and second, that the accused is not likely to commit any offence while on bail. The recording of such satisfaction is not a mere formality but a jurisdictional requirement. This Court in *Kashif* (supra) has held, in plain terms, that the non-recording of the twin satisfaction, being mandatory in nature, renders an order granting bail unsustainable. A similar view has been expressed in *Lalrintluanga Sailo* (supra) and *Ajay Kumar Singh* (supra).

10. When the impugned order is tested against that settled position, it becomes apparent that paragraph 8 of the



impugned order, which carries the weight of the reasoning, does not contain a finding on either of the twin conditions prescribed by Section 37(1)(b)(ii) of the NDPS Act. What the High Court has, instead, proceeded on is the proposition that “the rigours of Section 37 of the NDPS Act can be diluted bearing in mind the right to a speedy trial”. The right to speedy trial under Article 21 of the Constitution is undoubtedly a valuable constitutional guarantee, but in the context of a special statute such as the NDPS Act dealing with commercial quantity, that right has to be read alongside, and not in displacement of, the mandate of Section 37. The omission to record the twin satisfaction prescribed by the statute, it appears, may have escaped the attention of the High Court.

17. Therefore, the petitioner cannot claim bail because of the violation of his right to a speedy trial.

18. No other point was urged.

19. In view of the above, the present petition fails, and it is dismissed. However, it is expressly made clear that in case there is no substantial progress of the trial, the petitioner would be at liberty to approach the Court for seeking grant of bail.

20. 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

13th August, 2026
(Chander)