

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MP (M) No. 2569 of 2025****Reserved on: 19.11.2025****Date of Decision: 27.11.2025.**

Mohit Singh @ Toni**...Petitioner****Versus****State of Himachal Pradesh****...Respondent**

Coram***Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting?¹ No.*****For the Petitioner : Mr Umesh Kanwar, Advocate.****For the Respondent/State : Mr Jitender Sharma,
Additional Advocate General.**

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking regular bail in F.I.R. No. 127 of 2024, dated 27.10.2024, registered at Police Station, Damtal, District Kangra, H.P., for the commission of offences punishable under Sections 21, 27A and 29 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 apprehended Kamaljeet on 27.10.2024 at about 7:00 pm with 262 grams of heroin. Kamaljeet revealed that he had purchased heroin from Rajesh Lodhi and was to be delivered to Rajat Kumar. The police arrested Rajesh Kumar, who disclosed that one Vishal Kumar resident of Dubai, used to send contraband to him. He (Rajesh Kumar) used to sell it and hand over the money to Raj Kumar alias Sethi. Raj Kumar had handed over the money to Lakhwinder. Police arrested Lakhwinder, who disclosed that he had deposited the money with the petitioner, who is an employee of Gaurav Jewellers. The police arrested the petitioner. The grounds of arrest were not supplied to the petitioner, which is violative of Article 22(1) of the Constitution of India. The petitioner was falsely implicated, and there is no material to connect him to the commission of the crime. The co-accused Gagan Sarna, Rajesh Kumar and Shabnam have been released on bail. The petitioner is a first offender, and there is nothing to connect him to the commission of the crime. 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 the police party apprehended Kamajeet Singh with a carry bag containing 262 grams of heroin on 27.10.2024. The police seized the heroin and arrested Kamaljeet. Kamaljeet revealed during the interrogation that he had purchased the heroin from Rajesh, and he was to deliver it to Rajat Kumar. The police checked call details record and found that Rajesh and Rajat Kumar had been in touch with each other. The police apprehended Rajesh, who revealed that Vishal, a resident of Dubai, supplies the heroin to him with directions to further supply it to the persons named by him. He used to hand over the money to Rajesh Kumar alias Sethi. The police apprehended Rajesh Kumar alias Sethi. Rajesh Kumar alias Sethi revealed during the interrogation that he had handed over the money to Lakhvinder Singh as per the directions of Vishal. The police apprehended Lakhvinder, who revealed that he had deposited the money into his account and handed over some of the money to petitioner, Mohit Singh, an employee of Gaurav Jewellers. He had also handed over about three crores rupees to Gagan Sarna, owner of Gaurav Jeweller. The police arrested petitioner, Mohit Singh and recovered the gold ornaments, currency notes, and

the investment documents. The petitioner also revealed that Lakhwinder had handed over cash, 67 grams of gold jewellery, 97 grams of silver jewellery and a mobile phone to him. The police seized the jewellery, mobile phone, insurance bonds and currency notes worth ₹4,90,000/-. The petitioner had kept drug money with him to benefit the drug dealers. The challan was filed before the Court, and the matter is listed before the learned Trial Court on 19.12.2025. Hence, the status report.

4. I have heard Mr Umesh Kanwar, learned counsel for the petitioner and Mr Jitender Sharma, learned Additional Advocate General, for the respondent-State.

5. Mr Umesh Kanwar, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. There is nothing on record to connect the petitioner to the commission of crime. As per the prosecution, only drug money was deposited with the petitioner, which may attract the provisions of the Prevention of Money Laundering Act, but does not attract the provisions of the NDPS Act. The co-accused have been released on bail, and the petitioner is entitled to bail on the principle of parity. The petitioner would abide by

the terms and conditions that the Court may impose. Hence, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Jitender Sharma, learned Additional Advocate General, for the respondent-State, submitted that the petitioner was involved in the offence of drug trade. He abetted the sale and purchase of heroin. The quantity of heroin recovered by the police is commercial, and the rigours of Section 37 of the NDPS Act apply to the present case. 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 consid-

ered 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 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 evi-*

dence 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 allegations against the petitioner are that the drug money was deposited with him. According to the prosecution, this amounts to financing of the drugs. This submission is not acceptable. 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 or 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)

11. In the present case, the prosecution alleged that the petitioner had taken money generated from the sale of the heroin. This does not amount to financing. It was submitted that the petitioner paid money to the Drug Dealers as per the direction of Vishal. Even if it is accepted to be correct, the money belonged to Drug Dealers, as per the prosecution, and returning the money to them will not amount to financing by any stretch of interpretation. Thus, *prima facie*, the allegations against the petitioner do not attract the provisions of Section 27A of the NDPS Act.

12. Perusal of the status report shows that the petitioner had received money from the Drug Dealers; therefore, he would not be an abettor. It was laid down by the Gujarat High Court in *Lalitbhai Vikramchand Parekh vs. State of Gujarat and Ors.*

(10.04.2015 - GUJHC): MANU/GJ/0165/2015 that the abettor is a person who instigates the commission of the offence. It was observed:

13. As the expressions "abetment" and "abettor" have been legislatively defined, the ordinary dictionary meaning of the expressions would not be determinative of their import. It may, however, be useful to have a look at the dictionary meaning of the expression "abet". According to *Webster, Webster's Third New International Dictionary, Vol. I*, the expression "abet", means to incite, encourage, instigate, or countenance, usually used disparagingly. According to *Wharton, Wharton's Law Lexicon, 14th ed.*, "abet" means to stir up or excite, to maintain or patronise: to encourage or set on, and the "abettor" is an instigator or setter on, one who promotes or procures a crime to be committed. *Stroud, Stroud's Judicial Dictionary, 4th ed.*, has given various meanings of the expression "aid" or "abet", based on judicial pronouncements in England, in the context of different statutes. Thus, according to *Hawkins, 51 L.J.M.C. 78-R. v. Coney, J.*, "To constitute an aider or abettor, some active steps must be taken, by word or action, with intent to instigate the principal or principals. Encouragement does not, of necessity, amount to aiding and abetting. It may be intentional or unintentional. A man may unwillingly encourage another in fact by his presence, by misinterpreted gestures, or by his silence or non-interference; he may encourage intentionally by expressions, gestures, or actions, intended to signify approval. In the latter case, he aids and abets; in the former he does not." Stroud also cites the case of *Du Cros v. Lambourne, 1907 (1) K.B. 40*. in which it was held that "the owner in, and in control of, a motor car which is being driven at an improper speed by a driver who is not his servant, "aids or abets" in the offence if he (the owner) does not interfere." It is further noticed on the

basis of decision in the case of *Rubie v. Faulkner*, 1980 (1) K.B. 571: "For a supervisor of a learner driver to see that an unlawful act is about to be done and to fail to prevent it is he can is for him to aid and abet." It is further noticed, on the authority of the decision in the case of *Callow v. Tillstone*, 83 L.T. 411, that "A man does not by negligence aid and abet a person to expose unsound meat for sale." It is further noticed, on the basis of the decision in the case of *Ackroyds Air Travel v. Director of Police Prosecutions*, 1950 (1) All. E.R. 933 and *Thomas v. Lindop*, 1950 (1) All. E.R. 966, that "If a person knows all the circumstances which constitute the offence he will be guilty of aiding and abetting whether he knew that they did in fact constitute the offence or not " Stroud also quotes Lord Goddard C J. in *Ferguson v. Weaving*, 1951 (1) K.B 814, that "it is well known that the words 'aid and abet are apt to describe the action of a person who is present at the time of the commission of an offence and takes some part therein."

14. It may be useful to refer to some of the early English decisions, dealing with different ways of taking part in a felony. It was recognised that a felony may be committed by the hand of an "innocent agent" who, having no blameworthy intentions in that he did, incurred no criminal liability by doing it. In such a case, the man who "instigates" this agent is the real offender; his was the last mens rea that preceded the crime, though it did not cause it "immediately but mediately". "Thus, if a physician provides a poisonous draught and tells a nurse that it is the medicine to be administered to her patient, and then by her administration of it the patient is killed, the murderous physician-and not the innocent nurse-is the principal in the first-degree murder. 52 (T.A.C.)." In English Law, as it stood before the later developments, "a principal in the second degree is one by whom the actual perpetrator of the felony is aided and abetted at the very time when it is committed; for instance, a car-owner sitting beside the chauffeur who kills some one by over-fast driving, or a passenger on a clandestine joy-riding

expedition which results in manslaughter 1930 (22) Cr, App. R. 70: 144 L.T. 185, "or bigamist's second 'wife' if she knows he is committing bigamy, or even be spectators if they actively encourage such a contest even by mere applause. "But a spectator's presence at a prize-fight does not of itself constitute sufficient encouragement to amount to an aiding and abetting 1882 (8) Q.B.D. 534." It was also recognised that a man may effectively "aid and abet" a crime and at the very moment of its perpetration, without being present at the place where it is perpetrated. "To be guilty of aiding and abetting, a person must either render effective aid to the principal offender or else must be present and acquiesce in what he is doing. Before a person can be convicted of aiding and abetting the commission of an offence, he must at least know the essential matters which constitute the offence 1951 (1) All. E.R. 412(414). "But acquiescence sufficient to constitute the offence may be established by evidence of the accused person's motive and of his subsequent conduct 1951 (1) All. E.R. 464."

In the category of "accessory before the fact" comes a person who "procures or advises" one or more of the principals to commit the felony. This "requires from him an instigation so active that a person who is merely shown to have acted as the stakeholder for a prize-fight which ended fatally, would not be punishable as an accessory, 1875, 2 C.C.R. 147." "The fact that a crime has been committed in a manner different from the mode which the accessory had advised will not excuse him from liability for it. But a man who has counselled a crime does not become liable as an accessory if. Instead of any form of the crime suggested, an entirely different offence is committed, 1936 (2) All. E.R. 813." Kenny, Kenny's Outlines of Criminal Law, New ed. by J.W.C. Turner, p. 88, points out that it is not always easy to decide whether or not the crime actually committed comes within the terms of the "incitement." to make the inciter legally responsible for it. He further observed that the courts in

some of the older cases tended to "take a strict view of the facts" and refers by illustration to the case of *R. v. Saunders*, *Kel. 52 (T.A.C.)* and *Archer* in 1578. referred to in *Plowden*.

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16. *Halsbury, in Halsbury's Law of England, 4th ed. Paras. 42 to 44* notice some of the English decisions in the matter of classification of offence and complicity in the crime. Thus, a person who "assists the perpetrator at the time of its commission, or if he assists or encourages the perpetrator before its commission, was held liable 1970, 2 *Q.B. 54*. According to *R.V. Gregory (1867) L.R.I. C.C.R. 77* "any person who aids, counsels or procures the commission of an offence, whether an offence at common law or by statute, and whether indictable or summary, is liable to be tried and punished as a principal offender." Mere presence at the commission of the crime is not enough to create criminal liability, nor is it enough that a person is present with a secret intention to assist the principal should assistance be required. Some encouragement or assistance must have been given to the principal either before or at the time of the commission of the crime with the intention of furthering its commission. Presence without more may, however, afford some evidence of aid and encouragement. It is an indictable offence at common law for a person to incite or solicit another to commit an offence. For an incitement to be complete, there must be some form of actual communication with a person whom it is intended to incite. Where, however, a communication is sent with a view to inciting, but does not reach the intended recipient, the sender may be guilty of an attempt to incite. Incitement is complete though the mind of the person incited is unaffected, and notwithstanding that person incited intends to inform on the inciter; but there can be no incitement unless one person seeks to persuade or encourage another. *Halsbury's Laws of England, Paras. 42 to 44*.

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18. Some later decisions arising out of other instances of instigation throw further light on the question. In the case of *Parimal Chatterjee and others* MANU/WB/0073/1932: A.I.R 1932 Cal. 760, a Division Bench of the Calcutta High Court observed that the word "instigate" literally means to goad or urge forward or to provoke, incite, urge or encourage to do an act. A person may, however, not only instigate another, but he may co-operate with him, and his Co-operation may consist of a conjoint action, and that would amount to abetment. In the case of *State of Bihar v. Ranen Nath and other* MANU/BH/0096/1958: A.I.R. 1958 Patna 259, a Division Bench of the Patna High Court was construing Section 27 of the Industrial Disputes Act which uses the expressions 'Instigation and incitement' and observed that the words "should be read to signify something deeper than a mere asking of a person to do a particular act. There must be something in the nature of solicitation to constitute instigation or incitement" and it was held that the words seem to convey the meaning "to goad or urge forward or to provoke or encourage the doing of an act." It was further observed that what acts should amount to instigation or incitement within the meaning of that section will depend upon the "particular facts of each case", and that in some circumstances a "throw of a finger" or "a mere turning of the eye" may give rise to an inference of either "incitement or instigation", and yet in others even "strong words, expressly used, may not mean that the person using them was stimulating or suggesting to anyone to do a particular act." The court expressed the view that there must be something "tangible" in evidence to show that the persons responsible for such action were "deliberately trying to stir up other persons to bring about a certain object". According to a division bench of the Calcutta High Court, a person abets the doing of a thing when he or she, inter alia, "instigates any person to do that thing." The other modes of abetment, besides

instigation, are "conspiracy and intentional aid". The word "instigation" literally means "to goad or urge forward to do an act." "It is something more than co-operation." In the case of *Shri Ram and another*, MANU/SC/0207/1974: 1975 (2) S.C.R. 622, the Supreme Court observed that in order to constitute abetment, the abettor must be shown to have "intentionally" aided the commission of the crime. "Mere proof that the crime charged could not have been committed without the interposition of the alleged abettor is not enough compliance with the requirements of Section 107". A person may, for example, "invite another casually or for a friendly purpose and that may facilitate the murder of the invitee". But unless the invitation was extended "with intent to facilitate the commission of the murder", the person inviting cannot be said to have abetted the murder. It is not enough that an act on the part of the alleged abettor "happens to facilitate the commission of the crime". "Intentional aiding and therefore active complicity is the gist of the offence of abetment under the third paragraph of Section 107."

13. Thus, the case of the petitioner will not *prima facie* fall within the definition of abetment, and he cannot be held liable under Section 29 of the NDPS Act.

14. In view of the above, there is no reasonable ground to believe that the petitioner has committed an offence punishable under Section 27-A of the NDPS Act or had abetted the possession of a commercial quantity of heroin. Hence, he cannot be detained in custody for an indefinite period.

15. Consequently, 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.

16. 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.

17. The petition stands accordingly disposed of. A copy of this order be sent to the Jail Superintendent, District and Air Correctional Home, Dharamshala, District Kangra, HP and the learned Trial Court by *FASTER*.

18. The observations made hereinabove are regarding the disposal of this petition and will have no bearing, whatsoever, on the case's merits.

(Rakesh Kainthla)
Judge

27th November 2025
(Chander)

CHANDER
SHEKHAR

Digitally signed
by CHANDER
SHEKHAR
Date: 2025.11.27
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