



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP (M) No. 1431 of 2025

Reserved on: 24.09.2025

Date of Decision: 9.10.2025

Man Bahadur Singh	...	Petitioner
Versus		
State of Himachal Pradesh	...	Respondent

Coram
Hon’ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?¹ Yes

For the Petitioner	:	M/s. Rakesh Chaudhary and Panku Chaudhary, Advocates.
For the Respondent/State	:	Mr Jitender K. Sharma, Additional Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for seeking regular bail in FIR No. 248 of 2023, dated 18.08.2023, registered at Police Station Sadar Kullu, District Kullu, H.P., for the commission of an offence punishable under Section 20 of the Narcotic Drugs and Psychotropic Substances Act (for short ‘NDPS’)

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

2. It has been asserted that the petitioner was arrested in a false F.I.R. The police filed the charge-sheet before the learned Trial Court on 28.09.2023. Charges were framed against the petitioner on 27.04.2024. The prosecution has cited fifteen witnesses, out of whom only seven have been examined. The petitioner is innocent and has not committed any offence. The petitioner has been behind the bars for about one year and ten months, and his right to a speedy trial is being violated. The petitioner would abide by all the terms and conditions which the Court may impose. 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 party was on a patrolling duty on 18.08.2023. They reached Sangnapul at 5:14 p.m. The petitioner was seen sitting on the hill. The police went towards him. He pushed a yellow carry bag towards the drain after seeing the police. The police apprehended him and associated Narinder Singh as an independent witness. The petitioner identified himself as Man Bahadur Singh. The police checked the carry bag and recovered 2.007 Kilograms of Charas. The police seized the charas and arrested the petitioner. The Charas was sent to SFSL

for analysis, and as per the report, it was found to contain an extract of cannabis and a sample of Charas. The police filed the charge-sheet before the Court of learned Special Judge at Kullu, H.P. The prosecution has cited fifteen witnesses and the matter was listed for recording the statement of the prosecution witnesses on 28.07.2025 and 29.07.2025. Hence, the status report.

4. I have heard M/s Rakesh Chaudhary and Panku Chaudhary, learned counsel for the petitioner and Mr Jitender K. Sharma, learned Additional Advocate General, for the respondent/State.

5. Mr Rakesh Chaudhary, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The prosecution was unable to complete the evidence despite the lapse of nearly two years from the date of the petitioner's arrest. Therefore, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Jitender K. Sharma, learned Additional Advocate General, for the respondent/State, submitted that the petitioner was found in possession of a commercial quantity of charas and

the rigours of Section 37 of the NDPS Act apply to him. He has failed to satisfy the twin conditions laid down in Section 37 of the NDPS Act, and is not entitled to bail. The prosecution is only to examine the six witnesses, and the trial is likely to be concluded soon. 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 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)*

XXXXXXX

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. It was submitted that the petitioner was not informed about the grounds of arrest, and his arrest is illegal. This submission is not acceptable. The status report shows that the police apprehended the petitioner with a carry bag containing 2.007 kilograms of charas. It was laid down by three Judges of the Hon’ble Supreme Court in *Madhu Limaye, In re*, (1969) 1 SCC 292: 1968 SCC OnLine SC 374, that if the accused is

arrested red-handed, there is no need to explain the grounds of arrest: it was observed at Page 298:

“Lord Simonds gave an illustration of the circumstances where the accused must know why he is being arrested.

“There is no need to explain the reasons for arrest if the arrested man is caught red-handed and the crime is patent to high Heaven.”

11. It was held in *Balbir Kaur v. State of Punjab*, (2009) 15 SCC 795: (2010) 3 SCC (Cri) 997: 2009 SCC OnLine SC 1258, that where the accused knew that she was being searched for the contraband, the plea taken by her regarding non-communication of the reason of arrest is technical in nature. It was observed at page 802:

“20. In view of the concurrent findings of the trial court and as also the High Court holding that the appellant was in conscious possession of the said contraband goods, the allegation of non-disclosure of the purpose of the search and the grounds of arrest to her is of a technical nature and without there being any material force in them. The appellant herself knew that she was being searched for possession of contraband goods, and therefore, she had also sought protection as provided under Sections 52 and 57 of the NDPS Act.

21. The appellant was being searched and arrested on account of possession of contraband goods. The violation of the provisions of the NDPS Act was clearly known to her. The allegation that she herself asked for such protection instead of prosecution, giving her the option to be searched before a gazetted officer, as required under the law, would not in any manner adversely affect her

conviction and order of sentence passed by both the courts below. No prejudice could be shown by the appellant against the DSP, who was a gazetted officer and the lady officer present at the time of the search.”

12. The matter is pending before the Hon’ble Supreme Court in *Mihir Rajesh Shah vs State of Maharashtra, SLP (Crl.) 17132 of 2024*, and nothing more is required to be said regarding this aspect at this stage.

13. The arrest memo filed by the petitioner mentions the offence committed by him. It was laid down by the Hon’ble Supreme Court in *Narayanaswamy Ravishankar v. Asstt. Director, Directorate of Revenue Intelligence (2002) 8 SCC 7: 2002 SCC (Cri) 1865: 2002 SCC Online SC 948*, that when the arrest memo mentions the offence committed by the accused, the plea taken by him regarding non-communication of arrest is not acceptable. It was observed at page 9:

“6. It was also contended by the learned Senior Counsel that the ground on which the appellant was arrested was not communicated to him. We find no merit in this because the arrest memo clearly indicates the offence stated to have been committed by the appellant under the NDPS Act. Further, the record also shows that a copy of the arrest memo Ext. P-20 was received by the appellant.”

14. The status report shows that the petitioner was found in possession of 2.007 kilograms of charas, which is a

commercial quantity. Hence, the rigours of Section 37 of NDPS apply to the present case.

15. Section 37 of the NDPS Act provides that in an offence involving a commercial quantity, the Court should be satisfied that the accused is not guilty of the commission of an offence and is not likely to commit any offence while on bail. It reads as follows:

“37. Offences to be cognisable and non-bailable. – (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) –

(a) every offence punishable under this Act shall be cognisable.

(b) no person accused of an offence punishable for offences under section 19, section 24, or section 27A and also for offences involving commercial quantity, shall be released on bail or his own bond unless –

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such an offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure,

1973 (2 of 1974) or any other law for the time being in force, on granting of bail.”

16. This Section was interpreted by the Hon'ble Supreme Court in *Union of India Versus Niyazuddin & Another* (2018) 13 SCC 738, and it was held that in the absence of the satisfaction that the accused is not guilty of an offence and he is not likely to commit an offence while on bail, he cannot be released on bail.

It was observed:

“7. Section 37 of the NDPS Act contains special provisions with regard to the grant of bail in respect of certain offences enumerated under the said Section. They are:

- (1) In the case of a person accused of an offence punishable under Section 19,
- (2) Under Section 24,
- (3) Under Section 27A and
- (4) offences involving a commercial quantity.

8. The accusation in the present case is with regard to the fourth factor, namely, commercial quantity. Be that as it may, once the Public Prosecutor opposes the application for bail to a person accused of the enumerated offences under Section 37 of the NDPS Act, in case the court proposes to grant bail to such a person, two conditions are to be mandatorily satisfied in addition to the normal requirements under the provisions of the Cr.P.C. or any other enactment.

- (1) The court must be satisfied that there are reasonable grounds for believing that the person is not guilty of such an offence;
- (2) that person is not likely to commit any offence while on bail.”

17. This position was reiterated in *State of Kerala Versus Rajesh*, AIR 2020 SC 721, wherein it was held:

"19. This Court has laid down broad parameters to be followed while considering the application for bail moved by the accused involved in offences under the NDPS Act. In *Union of India vs Ram Samujh and Ors.*, (1999) 9 SCC 429, it has been elaborated as under: -

"7. It is to be borne in mind that the aforesaid legislative mandate is required to be adhered to and followed. It should be borne in mind that in a murder case, the accused commits the murder of one or two persons, while those persons who are dealing in narcotic drugs are instrumental in causing death or in inflicting death-blow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely. The reason may be the large stake and illegal profit involved. This Court, dealing with the contention with regard to punishment under the NDPS Act, has succinctly observed about the adverse effect of such activities in *Durand Didier vs Chief Secy., Union Territory of Goa*, (1990) 1 SCC 95) as under:

24. With deep concern, we may point out that the organised activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances have led to drug addiction among a sizeable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and

alarming proportions in the recent years. Therefore, in order to effectively control and eradicate this proliferating and booming devastating menace, causing deleterious effects and a deadly impact on society as a whole, Parliament, in its wisdom, has made effective provisions by introducing Act 81 of 1985 specifying mandatory minimum imprisonment and fine.

8. To check the menace of dangerous drugs flooding the market, Parliament has provided that the person accused of offences under the NDPS Act should not be released on bail during trial unless the mandatory conditions provided in Section 37, namely,

(i) there are reasonable grounds for believing that the accused is not guilty of such offence; and

(ii) that he is not likely to commit any offence while on bail are satisfied. The High Court has not given any justifiable reason for not abiding by the aforesaid mandate while ordering the release of the respondent accused on bail. Instead of attempting to take a holistic view of the harmful socio-economic consequences and health hazards which would accompany trafficking illegally in dangerous drugs, the court should implement the law in the spirit with which Parliament, after due deliberation, has amended."

20. The scheme of Section 37 reveals that the exercise of power to grant bail is not only subject to the limitations contained under Section 439 of the CrPC but is also subject to the limitation placed by Section 37, which commences with the non-obstante clause. The operative part of the said section is in the negative form prescribing

the enlargement of bail to any person accused of the commission of an offence under the Act unless the two conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application, and the second is that the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such an offence. If either of these two conditions is not satisfied, the ban on granting bail operates.

21. The expression "reasonable grounds" means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires the existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. In the case at hand, the High Court seems to have completely overlooked the underlying object of Section 37 that, in addition to the limitations provided under the CrPC, or any other law for the time being in force, regulating the grant of bail, its liberal approach in the matter of bail under the NDPS Act is indeed uncalled for."

18. A similar view was taken in *Union of India v. Mohd. Nawaz Khan*, (2021) 10 SCC 100: (2021) 3 SCC (Cri) 721: 2021 SCC OnLine SC 1237, wherein it was observed at page 110:

"21. Under Section 37(1)(b)(ii), the limitations on the grant of bail for offences punishable under Sections 19, 24 or 27-A and also for offences involving a commercial quantity are:

- (i) The Prosecutor must be given an opportunity to oppose the application for bail; and
- (ii) There must exist "reasonable grounds to believe" that (a) the person is not guilty of such an

offence, and (b) he is not likely to commit any offence while on bail.

22. The standard prescribed for the grant of bail is “reasonable ground to believe” that the person is not guilty of the offence. Interpreting the standard of “reasonable grounds to believe”, a two-judge Bench of this Court in *Shiv Shanker Kesari [Union of India v. Shiv Shanker Kesari]*, (2007) 7 SCC 798: (2007) 3 SCC (Cri) 505], held that: (SCC pp. 801-02, paras 7-8 & 10-11)

“7. The expression used in Section 37(1)(b)(ii) is “reasonable grounds”. The expression means something more than prima facie grounds. It connotes substantial probable causes for believing that the accused is not guilty of the offence charged, and this reasonable belief contemplated, in turn, points to the existence of such facts and circumstances as are sufficient in themselves to justify the recording of satisfaction that the accused is not guilty of the offence charged.

8. The word “reasonable” has in law the prima facie meaning of reasonable in regard to those circumstances of which the actor, called on to act reasonably, knows or ought to know. It is difficult to give an exact definition of the word “reasonable”.

‘7. ... Stroud's Judicial Dictionary, 4th Edn., p. 2258 states that it would be unreasonable to expect an exact definition of the word “reasonable”. Reason varies in its conclusions according to the idiosyncrasy of the individual and the times and circumstances in which he thinks. The reasoning which built up the old scholastic logic sounds now like the jingling of a child's toy.’

[See *MCD v. Jagan Nath Ashok Kumar [MCD v. Jagan Nath Ashok Kumar]*, (1987) 4 SCC 497], SCC p. 504, para 7 and *Gujarat Water Supply & Sewerage Board v. Unique Erectors (Gujarat) (P) Ltd.* [Gujarat

Water Supply & Sewerage Board v. Unique Erectors (Gujarat) (P) Ltd., (1989) 1 SCC 532]

10. The word “reasonable” signifies “in accordance with reason”. In the ultimate analysis, it is a question of fact whether a particular act is reasonable or not, which depends on the circumstances in a given situation. (See *Municipal Corpn. of Greater Mumbai v. Kamla Mills Ltd.* [*Municipal Corpn. of Greater Mumbai v. Kamla Mills Ltd.* (2003) 6 SCC 315])

11. The court, while considering the application for bail with reference to Section 37 of the Act, is not called upon to record a finding of not guilty. It is for the limited purpose essentially confined to the question of releasing the accused on bail that the court is called upon to see if there are reasonable grounds for believing that the accused is not guilty and records its satisfaction about the existence of such grounds. But the court has not to consider the matter as if it is pronouncing a judgment of acquittal and recording a finding of not guilty.”

(emphasis supplied)

23. Based on the above precedent, the test which the High Court and this Court are required to apply while granting bail is whether there are reasonable grounds to believe that the accused has *not* committed an offence and whether he is likely to commit any offence while on bail. Given the seriousness of offences punishable under the NDPS Act and in order to curb the menace of drug trafficking in the country, stringent parameters for the grant of bail under the NDPS Act have been prescribed.”

19. It was held in *Union of India v. Ajay Kumar Singh, 2023*

SCC OnLine SC 346, that bail cannot be granted without

complying with the requirement of Section 37 of the NDPS Act. It was observed:

4. This apart, it is noticed that the High Court, in passing the impugned order of bail, had lost sight of Section 37 of the NDPS Act, which, *inter alia*, provides that no person accused of an offence involving commercial quantity shall be released on bail unless the twin conditions laid down therein are satisfied, namely, (i) the public prosecutor has been given an opportunity to oppose the bail application; and (ii) the court is satisfied that there are reasonable grounds for believing that he is not guilty of such an offence and that he is not likely to commit any such offence while on bail.

15. For the sake of convenience Section 37(1) is reproduced hereinbelow:—

“37. Offences to be cognisable and non-bailable.-

(1) Notwithstanding anything contained in the Criminal Procedure Code, 1973 (2 of 1974)-

(a) every offence punishable under this Act shall be cognisable.

(b) no person accused of an offence punishable for 2[offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless-

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.”

16. In view of the above provisions, it is implicit that no person accused of an offence involving trade in a commercial quantity of narcotics is liable to be released on bail unless the court is satisfied that there are reasonable grounds for believing that he is not guilty of such an offence and that he is not likely to commit any offence while on bail.

20. It was held in *State of Meghalaya v. Lalrintluanga Sailo*, 2024 SCC OnLine SC 1751, that the grant of bail without considering Section 37 of the NDPS Act is impermissible. It was observed:

“5. There cannot be any doubt with respect to the position that, in cases involving the commercial quantity of narcotic drugs or psychotropic substances, while considering the application of bail, the Court is bound to ensure the satisfaction of conditions under Section 37(1)(b)(ii) of the NDPS Act. The said provision reads thus:—

“37(1)(b)(ii)- where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.”

6. While considering the cases under the NDPS Act, one cannot be oblivious of the objects and reasons for bringing the said enactment after repealing the then-existing laws relating to Narcotic drugs. The object and reasons given in the acts themselves read thus:—

“An act to consolidate and amend the law relating to narcotic drugs, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances, to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to

implement the provisions of the International Convention on Narcotic Drugs and Psychotropic Substances and for matters connected therewith.”

In the decision in *Collector of Customs, New Delhi v. Ahmadalieva Nodira* (2004) 3 SCC 549, the three-judge bench of this Court considered the provisions under Section 37(1)(b) as also 37(1)(b)(ii) of the NDPS Act, with regard to the expression “reasonable grounds” used therein. This Court held that it means something more than the *prima facie* grounds and that it contemplates substantial and probable causes for believing that the accused is not guilty of the alleged offence. Furthermore, it was held that the reasonable belief contemplated in the provision would require the existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence.

As relates to the twin conditions under Section 37(1)(b)(ii) of the NDPS Act, viz., that, firstly, there are reasonable grounds for believing that the accused is not guilty of such offence and, secondly, he is not likely to commit any offence while on bail it was held therein that they are cumulative and not alternative. Satisfaction of the existence of those twin conditions had to be based on the ‘reasonable grounds’, as referred to above.

7. In the decision in *State of Kerala v. Rajesh* (2020) 12 SCC 122, after reiterating the broad parameters laid down by this Court to be followed while considering an application for bail moved by an accused involved in offences under the NDPS Act, in paragraph 18 thereof this Court held that the scheme of Section 37 of the NDPS Act would reveal that the exercise of power to grant bail in such cases is not only subject to the limitations contained under Section 439 of the Code of Criminal Procedure, but also subject to the limitation placed by Section 37(1)(b)(ii), NDPS Act. Further, it was held that in

case one of the two conditions thereunder is not satisfied, the ban on granting bail would operate.

8. Thus, the provisions under Section 37(1)(b)(ii) of the NDPS Act and the decisions referred supra reveal the consistent view of this Court that while considering the application for bail made by an accused involved in an offence under the NDPS Act, a liberal approach ignoring the mandate under Section 37 of the NDPS Act is impermissible. Recording a finding mandated under Section 37 of the NDPS Act, which is a *sine qua non* for granting bail to an accused under the NDPS Act, cannot be avoided while passing orders on such applications.”

21. In the present case, the prosecution has collected sufficient material to connect the petitioner with the commission of the crime. There is nothing on record to show that the petitioner would not indulge in the commission of an offence if released on bail. Hence, he has not satisfied the twin conditions laid down in Section 37 of the NDPS Act.

22. It was submitted that there is a delay in the progress of the trial, and the petitioner is entitled to bail on this ground. This submission is not acceptable. Certified copies of order sheets show that eight witnesses have been examined till 29.07.2025. The Court noticed that the Kullu-Mandi national highway was blocked because of the heavy rain. This was a circumstance beyond the control of any person, and the prosecution cannot be faulted for not producing the witnesses

due to the road blockade. The examination of eight witnesses within a period of one year and three months does not show any delay in the progress of the trial. Thus, the plea that the petitioner is entitled to bail because of the violation of his right to a speedy trial cannot be accepted.

23. No other point was urged.

24. In view of the above, the present petition fails, and it is dismissed.

25. The observation made herein before shall remain confined to the disposal of the instant petition and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

09th October, 2025
(ravinder)