

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. MP (M) No. 2478 of 2024**

**Reserved on: 22.11.2024**

**Date of Decision: 29.11.2024.**

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Ravi Sharma

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

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*Coram*

***Hon'ble Mr Justice Rakesh Kainthla, Judge.***

***Whether approved for reporting?<sup>1</sup> No.***

For the Petitioner : Mr. Vipin Pandit, Advocate.

For the Respondent/State : Mr Lokender Kutlehria,  
Additional Advocate General,  
with HC Naveen Kumar, No.  
19, Police Station Sadar,  
Solan, District Solan, H.P.

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**Rakesh Kainthla, Judge**

The petitioner has filed the present petition for seeking regular bail. It has been asserted that the petitioner was arrested vide FIR No. 74 of 2024, dated 3.5.2024, registered at Police Station Sadar, District Solan, H.P. for the commission of offences punishable under Sections 21 and 29 of the Narcotic

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

Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act'). The petitioner is innocent and he was falsely implicated. The co-accused, Raman Ravi Verma and Himmat have already been released on bail. The petitioner had filed a bail petition before the learned Special Judge-II, Solan, H.P., which was dismissed. No recovery was effected from the petitioner and the petitioner was not in conscious possession of the contraband. The petitioner would abide by all the terms and conditions, which the Court may impose. Hence, the petition.

2. The petition is opposed by filing a status report asserting that the police party was on patrolling duty on 3.5.2024. HC Dinesh Kumar received a secret information that a vehicle bearing registration No. HP-01A-7109 was going towards Shimla in which Raman Ravi Verma and petitioner Ravi Sharma were travelling. They were transporting heroin and in case of search, a huge quantity of heroin could be recovered. The police completed the formalities and intercepted the vehicle in the presence of Ashu Chandel at 8.05 PM. The petitioner and Raman Ravi Verma were found in the vehicle. Ravinder Kumar was driving the vehicle. Police checked the backpack being carried by Raman Ravi Verma and found a polythene packet

containing 8.91 grams of heroin. Police seized the articles lying in the backpack and the heroin. The police also arrested the petitioner and Raman Ravi Verma. The bank account detail of Raman Ravi Verma was obtained and the transfer of ₹15,000/- and ₹ 5,000/- were confirmed on 3.5.2024. Raman Ravi Verma revealed on inquiry that he and the petitioner had purchased the heroin from Pradeep Kumar. They consumed some of the heroin. ₹20,000/- were transferred to Himmat and ₹10,000/- were given in cash to Pradeep. The police obtained a call details record and obtained the bank account statement of Himmat. Transaction of ₹20,000/- was found. Police arrested Himmat and Pradeep. The mobile phone of Pradeep Kumar was checked and he was found in contact with Raman Ravi Verma and Himmat. A record of the hotel regarding the stay of Raman Ravi Verma was also obtained. The result of the analysis shows that the substance recovered was Diacetylmorphine (Heroin). Raman Ravi Verma was released on bail by this Court and Himmat was released on bail by learned Special Judge, Solan. The petitioner and Pradeep Kumar are in judicial custody. One case is pending against the petitioner under the ND&PS Act. Hence, the report.

3. I have heard Mr. Vipin Pandit, learned counsel for the petitioner and Mr. Lokender Kutlehria, learned Additional Advocate General for the respondent-State.

4. Mr. Vipin Pandit, learned counsel for the petitioner submitted that the petitioner is innocent and he was falsely implicated. Heroin was found in the backpack being carried by Raman Ravi Verma. The petitioner was travelling in a taxi as a passenger. He was not in conscious possession of heroin. Therefore, he prayed that the present petition be allowed and the petitioner be released on bail.

5. Mr. Lokender Kutlehria, learned Additional Advocate General for the respondent-State submitted that the petitioner is involved in the commission of a heinous crime. He was transporting heroin for sale to the public. Releasing the petitioner on bail will affect society adversely. Therefore, he prayed that the present petition be dismissed.

6. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

7. The parameters for granting bail were considered by the Hon'ble Supreme Court in *Manik Madhukar Sarve v. Vitthal*

*Damuji Meher, 2024 SCC OnLine SC 2271*, wherein it was observed as under: -

“19. Courts while granting bail are required to consider relevant factors such as the nature of the accusation, the role ascribed to the accused concerned, possibilities/chances of tampering with the evidence and/or witnesses, antecedents, flight risk *et al.* Speaking through Hima Kohli, J., the present *coram* in *Ajwar v. Waseem, 2024 SCC OnLine SC 974*, apropos relevant parameters for granting bail, observed:

“26. While considering whether bail ought to be granted in a matter involving a serious criminal offence, *the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. (Refer: Chaman Lal v. State of U.P. (2004) 7 SCC 525; Kalyan Chandra Sarkar v. Rajesh Ranjan alias Pappu Yadav (supra) (2004) 7 SCC 528; Masroor v. State of Uttar Pradesh (2009) 14 SCC 286; Prasanta Kumar Sarkar v. Ashis Chatterjee (2010) 14 SCC 496; Neeru Yadav v. State of Uttar Pradesh (2014) 16 SCC 508; Anil Kumar Yadav v. State (NCT of Delhi) (2018) 12 SCC 129; Mahipal v. Rajesh Kumar @ Polia (supra) (2020) 2 SCC 118.*

27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to

*interference by the Superior Court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a Superior Court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on the society resulting in such an order. In P v. State of Madhya Pradesh (supra) (2022) 15 SCR 211 decided by a three-judge bench of this Court [authored by one of us (Hima Kohli, J)] has spelt out the considerations that must be weighed with the Court for interfering in an order granting bail to an accused under Section 439(1) of the CrPC in the following words:*

*“24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [Dolat Ram v. State of Haryana, (1995) 1 SCC 349: 1995 SCC (Cri) 237]. To put it differently, in ordinary circumstances, this Court would be loathe to interfere with an order passed by the court below granting bail but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court.” (emphasis supplied)*

**20.** In *State of Haryana v. Dharamraj*, 2023 SCC OnLine SC 1085, speaking through one of us (Ahsanuddin Amanullah, J.), the Court, while setting aside an order of the Punjab and Haryana High Court granting (anticipatory) bail, discussed and reasoned:

*“7. A foray, albeit brief, into relevant precedents is warranted. This Court considered the factors to guide the grant of bail in Ram Govind Upadhyay v. Sudarshan*

**Singh, (2002) 3 SCC 598 and Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528. In Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, the relevant principles were restated thus:**

*'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.'*

**8. In Mahipal v. Rajesh Kumar alias Polia, (2020) 2 SCC 118, this Court opined as under:**

*'16. The considerations that guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an assessment of an application for the cancellation of*

*bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or arbitrary exercise of discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified. On the other hand, an application for cancellation of bail is generally examined on the anvil of the existence of supervening circumstances or violations of the conditions of bail by a person to whom bail has been granted. ...'*

9. In *Bhagwan Singh v. Dilip Kumar @ Deepu @ Depak*, 2023 INSC 761, this Court, in view of *Dolat Ram v. State of Haryana*, (1995) 1 SCC 349; *Kashmira Singh v. Duman Singh*, (1996) 4 SCC 693 and *X v. State of Telangana*, (2018) 16 SCC 511, held as follows:

*'13. It is also required to be borne in mind that when a prayer is made for the cancellation of the grant of bail cogent and overwhelming circumstances must be present and bail once granted cannot be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it inconducive to allow fair trial. This proposition draws support from the Judgment of this Court in *Dulat Ram v. State of Haryana*, (1995) 1 SCC 349, *Kashmira Singh v. Duman Singh* (1996) 4 SCC 693 and *XXX v. State of Telangana* (2018) 16 SCC 511.'*

10. In *XXX v. Union Territory of Andaman & Nicobar Islands*, 2023 INSC 767, this Court noted that the principles in *Prasanta Kumar Sarkar* (supra) stood reiterated in *Jagjeet Singh v. Ashish Mishra*, (2022) 9 SCC 321.

11. The contours of anticipatory bail have been elaborately dealt with by 5-Judge Benches in *Gurbaksh Singh Sibbia v. State of Punjab*, (1980) 2 SCC 565 and *Sushila Aggarwal v. State (NCT of Delhi)*, (2020) 5 SCC 1. *Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694 is worthy of mention in this context, despite its partial overruling in *Sushila*



*Aggarwal (supra)*. We are cognizant that liberty is not to be interfered with easily. More so, when an order of pre-arrest bail already stands granted by the High Court.

12. Yet, much like bail, the grant of anticipatory bail is to be exercised with judicial discretion. The factors illustrated by this Court through its pronouncements are illustrative, and not exhaustive. Undoubtedly, the fate of each case turns on its own facts and merits.” (emphasis supplied)

21. In *Ajwar (supra)*, this Court also examined the considerations for setting aside bail orders in terms below:

“28. The considerations that weigh with the appellate Court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined and detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.

29. In *Jagjeet Singh (supra)* (2022) 9 SCC 321, a three-judge bench of this Court, has observed that the power to grant bail under Section 439 Cr. P.C. is of wide amplitude and the High Court or a Sessions Court, as the case may be, is bestowed with considerable discretion while deciding an application for bail. But this discretion is not unfettered. The order passed must reflect the due application of the judicial mind following well-established principles of law. In the ordinary course, courts

*would be slow to interfere with the order where bail has been granted by the courts below. But if it is found that such an order is illegal or perverse or based upon utterly irrelevant material, the appellate Court would be well within its power to set aside and cancel the bail. (Also refer: Puran v. Ram Bilas (2001) 6 SCC 338; Narendra K. Amin (Dr.) v. State of Gujarat (2008) 13 SCC 584)”* (emphasis supplied)

8. The present petition has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

9. A perusal of the status report shows that the petitioner was not found in possession of the heroin. The heroin was recovered from the backpack being carried out by Raman Ravi Verma. The petitioner was simply a passenger in the vehicle. The investigation conducted by the police shows that the money was transferred to the account of Himmat by Raman Ravi Verma. There is no evidence to show that the petitioner had transferred any amount to Pradeep or Himmat. Therefore, *prima facie* there is insufficient material to connect the petitioner with the commission of the crime and the pendency of the earlier case against the petitioner cannot be held against him.

10. The petitioner stated that he is a permanent resident of Shimla. This was not stated to be incorrect. It means that the petitioner has roots in the society and he is not likely to abscond.

Therefore, there is no impediment in granting bail to the petitioner.

11. Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds in the sum of ₹25,000/- with two sureties each of the like amount to the satisfaction of the learned Trial Court. While on bail, the petitioner will abide by the following terms and 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 in case a charge sheet is presented against him 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 intending visit to the SHO, 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.

12. 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.

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

**(Rakesh Kainthla)**  
**Judge**

29<sup>th</sup> November, 2024  
(Chander)

Digitally signed by KARAN SINGH  
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