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**(2025) 12 SHI CK 0037**

**Himachal Pradesh HC**

**Case No:** Criminal Miscellaneous Petition (M) No. 2843 Of 2025

Rahul @ Roli

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

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**Date of Decision:** Dec. 17, 2025

**Acts Referred:**

- Code Of Criminal Procedure, 1973-Section 483
- Narcotic Drugs And Psychotropic Substances Act, 1985-Section 21, 29, 37

**Hon'ble Judges:** Virender Singh, J

**Bench:** Single Bench

**Advocate:** Vijender Katoch, Ranjna Patial, Sunil Kumar

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**Judgement**

Virender Singh, J

1. Applicant-Rahul alias Roli has filed the present application, under Section 483 of the Code of Criminal Procedure (hereinafter referred to as CrPC), seeking his release on bail, during the pendency of trial, arising out of FIR No. 212 of 2024, dated 6th December, 2024, registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as the NDPS Act), with Police Station, Kangra, District Kangra, H.P.

2. According to the applicant, he is innocent and has nothing to do with the offence, as he has falsely been implicated, in this case.

3. It is the case of the applicant that he is innocent and has nothing to do with the alleged offence.

4. According to the applicant, nothing material remains to be recovered from him, or at his instance, as, the investigation, in the present case, is complete.

5. The relief of bail has also been sought on the ground that the contraband recovered, in the present case, does not fall within the definition of commercial

quantity, as such, rigors of Section 37 of the NDPS Act, are not applicable, in the present case.

6. According to the applicant, he had earlier tried his luck by moving similar applications, before this Court and the learned trial Court, however, the same were dismissed.

7. Apart from this, the applicant has given the details of the cases, which have been registered against him, as under:

**(i) FIR No. 256/2018, dated 21.10.2018, registered under Sections 21 and 29 of NDPS Act, with Police Station Kangra, District Kangra, H.P., which is pending before the learned ACJM, Kangra;**

**(ii) FIR No. 108/2021, dated 28.08.2021 registered under Sections 21 and 29 of NDPS Act, with Police Station Kangra, which is pending before the learned JMFC Kangra;**

**(iii) FIR No. 53/2024, dated 02.03.2024, registered under Sections 21 and 29 of NDPS Act, with Police Station Kangra, H.P., which is pending adjudication before the learned ADJ-III, Kangra at Dharamshala.**

8. According to the applicant, he has not been convicted in any of the cases, registered against him.

9. It is the further case of the applicant that even, on the ground of parity, he is entitled to be released on bail, as his co-accused has already been released on bail, by this Court, vide order, dated 3rd November, 2025, passed in CrMP (M) No. 2549 of 2025, titled as Brijesh versus State of Himachal Pradesh.

10. On the basis of the above facts, Mr. Vijender Katoch, learned counsel appearing for the applicant, has given certain undertakings, on behalf of the applicant, for which, the applicant is ready to abide by, in case, he is ordered to be released on bail, during the pendency of the trial.

11. When put to notice, the police has filed the status report, disclosing therein, that on 6th December, 2024, HC Rajneesh Kumar, No. 129, Investigating Officer of Police Station, Kangra, submitted a rukka to Police Station, Kangra, for registration of the FIR, mentioning therein, that he, along with the other police officials, in his private vehicle, was on patrolling duty and duty to detect the crime relating to excise and narcotics drugs. While, on patrolling duty, when he alighted down from his private vehicle and was present near I&PH, Rest House to Natehad (Chheb) Kangra road, then, at about 10:45 a.m., he noticed a white coloured car, parked at a secluded place. Clothes were found to be kept over it, hence, a suspicion had been developed in the mind of the IO, as such, he, along with other police officials, had reached near the said vehicle.

The registration number of said vehicle was found to be HP-68A-4323 and on the drivers side window of the vehicle, a blanket had been put. When, the same was removed, it was found that the window glass was broken and a person was found sitting on the driver seat.

11.1. On inquiry, the said person become perplexed and disclosed his name as Brijesh Kumar son of Prakash Chand and the person sitting on the seat besides him, disclosed his name as Rahul alias Roli son of Vikram (applicant). Thereafter, the IO, enquired from them about the reason for parking the vehicle at a secluded place. Both of them could not give any satisfactory answer. Hence, the IO, has developed a suspicion in his mind that those persons might be having narcotic drugs, as such, he thought it proper to search the vehicle and for that purpose, he associated Arun Kumar son of Om Prakash, Pradhan GP Haled Kalan and Atul Dhiman son of Subhash Chand, Ward Member of Ward No.13, GP Haled Kalan, by calling them on the spot.

11.2. Thereafter, the vehicle was searched and during search of the vehicle, near the gear box, a transparent polythene envelope was found, which was found containing a brown coloured substance and a leather purse was also found there. In the inner pocket of the purse, a transparent polythene was also found containing brown coloured substance. Indian currency notes of ₹ 9,080/-were also found there. One used insulin syringe was also found near the gear box. Another used insulin syringe, alongwith the steel spoon, was also found.

11.3. When, the substance, so recovered, was checked, on drug deduction kit, the same was found to be heroin/chitta. On weighment, the chitta was found to be 11.96 grams. The currency notes, as well as, contraband were taken into possession. Thereafter, rukka was prepared. On the basis of the said rukka, FIR was registered and the accused persons were arrested.

11.4. As per the status report, following cases are found to have been registered, against the applicant:

**(i) FIR No. 256/2018, dated 21.10.2018, registered under Sections 21 and 29 of NDPS Act, with Police Station Kangra, District Kangra, H.P., which is pending before the learned ACJM, Kangra;**

**(ii) FIR No. 108/2021, dated 28.08.2021 registered under Sections 21 and 29 of NDPS Act, with Police Station Kangra, which is pending before the learned JMJC Kangra;**

**(iii) FIR No. 53/2024, dated 02.03.2024, registered under Sections 21 and 29 of NDPS Act, with Police Station Kangra, H.P., which is pending adjudication beofre the learned ADJ-III, Kangra at Dharamshala.**

11.5. On the basis of the above facts, it has been apprehended that the applicant is very clever and drug addict. He is stated to be in the business of selling and

supplying the drugs for the last few years. He is supplying charas to the students of schools and colleges. Due to his act, younger generation is being involved in drug addiction.

11.6. According to the Police, there is a lot of resentment against the acts of the applicant, as, the said acts are endangering the young generation.

11.7. Lastly, it has been apprehended that in case, the applicant is released on bail, he may again indulge in the same activities.

12. On the basis of the above facts, a prayer has been made to dismiss the application.

13. The contraband, which has been allegedly recovered from the possession of the applicant, in this case, does not fall within the definition of the commercial quantity. As such, rigors of Section 37 of the NDPS Act are not applicable, in this case.

14. Once, it has been held that rigors of Section 37 of the NDPS Act are not applicable, in this case, then, the presumption of innocence is still available to the applicant, as, the bail application cannot be rejected as a matter of punishment. Pre-trial punishment is prohibited under the law.

15. The applicant is in the judicial custody, which fact demonstrates that his custodial interrogation is no longer required by the investigating agency.

16. The applicant is permanent resident of District Kangra, as such, it cannot be said that in case, the applicant is ordered to be released on bail, he may not be available for the trial.

17. The investigation, in the present case, is complete and the case has now been listed on 5th January, 2026, for recording the statements of the prosecution witnesses.

18. Mere registration of other cases against the applicant, does not take away the presumption of innocence, which is still available to him, as, admittedly, in none of the cases, he has been convicted by the Competent Court of Law. Moreover, no efforts have been made by the police to get the bail, granted to the applicant, in those cases, cancelled.

19. The chances of conclusion of the trial, against the applicant, in near future, are not so bright, as such, no useful purpose would be served by keeping him in judicial custody, for indefinite period.

20. The applicant is also entitled for the relief of bail on the basis of parity, as, his co-accused Brijesh has already been released on bail, by this Court, vide order, dated 3rd November, 2025, passed in CrMP (M) No. 2549 of 2025.

21. Considering the apprehensions, which have been expressed by the police, in the status report, this Court is of the view that for those apprehensions, reasonable conditions can be imposed, in case, the applicant is ordered to be released on bail, during the pendency of the trial.

22. Considering all these facts, this Court is of the view that the bail application is liable to be allowed and is accordingly allowed.

23. Consequently, the applicant is ordered to be released on bail, during the course of trial, arising out of FIR No. 212 of 2024, dated 6th December, 2024, registered under Sections 21 and 29 of the NDPS Act, with Police Station Kangra, District Kangra, H.P., on his furnishing personal bail bond, in the sum of ₹ 50,000/-, with one surety of the like amount, to the satisfaction of the learned trial Court. This order, however, shall be subject to the following conditions:

**a) The applicant shall regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;**

**b) The applicant shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;**

**c) The applicant shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or the Police Officer; and**

**d) The applicant shall not leave the territory of India without the prior permission of the Court.**

24. Any of the observations, made hereinabove, shall not be taken as an expression of opinion, on the merits of the case, as these observations, are confined, only, to the disposal of the present bail application.

25. It is made clear that the respondent-State is at liberty to move an appropriate application, in case, any of the bail conditions, is found to be violated by the applicant.

26. The Registry is directed to forward a soft copy of the bail order to the Superintendent of Jail, Lala Lajpat Rai District Air Correctional Home, Dharamshala, through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

27. In case, the applicant is not released within a period of seven days from the date of grant of bail, the Superintendent of Jail, Lala Lajpat Rai District Air Correctional Home, Dharamshala, is directed to inform this fact to the Secretary, DLSA, Kangra. The Superintendent of Jail, Lala Lajpat Rai District Air Correctional Home, Dharamshala, is further directed that if the applicant fails to furnish the bail bonds, as per the order passed by this Court, within a period of one month from today,

then, the said fact be submitted to this Court.