

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**Cr.MP No. 4286 of 2025 in
Cr. Appeal No. 231 of 2025
Reserved on: 22.12.2025
Date of Decision: 31.12.2025**

Jeet Singh @ Anju

...Applicant/Appellant.

Versus

State of H.P.

...Non-Applicant/Respondent.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Romesh Verma, Judge.

Whether approved for reporting?¹

For the applicant/appellant : Mr. K.S.Gill, Advocate.

For the respondent : Ms. Sharmila Patial, Additional
Advocate General.

Romesh Verma, Judge

This order shall dispose off an application filed by the appellant/applicant under Section 430 of Bharatiya Nagrik Suraksha Sanhita for suspension of execution of the judgment of conviction and order of sentence dated 29.03.2025 as passed by the learned Special Judge, Chamba, district Chamba, H.P. in CIS Registration No. 49 of 2023.

2. The learned counsel for the applicant/appellant has submitted that applicant/appellant has been falsely roped and implicated in the present case as either directly or indirectly he is not involved in any manner in the present case.

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

He has contended that learned Court below has not appreciated the oral as well as documentary evidence placed on record and had wrongly convicted the applicant/appellant under Section 20 of the Narcotic Drugs and Psychotropic Substances Act (for short, ND& PS Act) for ten years and to pay fine of Rs. One lakh and in default of payment of fine, he was further directed to undergo simple imprisonment for one year. It has been argued that there are fair chances of acquittal of the applicant/appellant and there are material contradictions in the story of the prosecution and therefore, he is entitled to the benefit of doubt. Lastly, he has contended that since the present appeal will take some time for its final hearing, therefore, the present application deserves to be allowed and the judgment of conviction and order of sentence are liable to be suspended/stayed during the pendency of the main appeal.

3. On the other hand, the respondent/State has vehemently opposed the present application by filing reply, whereby, it has been stated that since the applicant was found in exclusive and conscious possession of 1.510 Kgs Charas, therefore, no leniency can be shown to the applicant/appellant at this stage, that too, while deciding the application for

suspension of sentence. Lastly, she has submitted that no case is made out for the suspension of sentence and the application is liable to be rejected.

4. We have heard Mr. K.S.Gill, Advocate, appearing for the applicant/appellant and Ms. Sharmila Patial, learned Additional Advocate General, appearing for the respondent/State and have also scanned the record for the purpose of adjudicating the present application.

5. The learned counsel for the applicant/appellant has argued that applicant/appellant has been falsely implicated in the present case. As a matter of fact, three persons were traveling in the car, however, remaining two accused persons have been acquitted and present applicant/appellant has been convicted without any evidence available on record. He has further submitted that since the contraband was not found from the conscious and exclusive possession of the applicant/appellant, therefore, the judgment of conviction and order of sentence are bad in the eyes of law. He has further contended that the contraband was found below the driver seat and it was neither found during his personal search nor from any belongings which belonged to him. Therefore, under such

circumstances, he has prayed for suspension of sentence as imposed by the learned Court below against the applicant/appellant.

6. For the determination of the present application, it shall be proper to analyze the evidence of witnesses, who have categorically stated that the contraband was found from the conscious and exclusive possession of the present applicant/appellant.

7. In order to substantiate the guilt of the accused, the prosecution has examined Constable Ram Chand No. 309 as PW-2, who has stated that on checking, a knotted pink colour carry bag was found under the driver seat and when the knot of the carry bag was opened black colour stick shape substance was found therein.

8. Constable Nek Singh No. 604 was examined as PW-3, who has stated that on checking pink colour, carry bag which was found under the driver seat and when the knot of the carry bag was opened, black coloured stick shape substance was found therein.

9. HHC Sunil Kumar No. 304 was examined as PW-5, who has stated that one car bearing No. HP73-8472 of

white colour came from Nainikhud, which was signalled to stop by ASI Pradeep Kumar with his right hand. The driver of the car stopped the car on the side of the road. There were two other persons sitting in the car alongwith driver. On checking a knotted pink colour carry bag was found under the driver seat and when the same was opened, black coloured stick shape substance was found therein.

10. Sh. Yog Raj, was examined as PW-6. He has stated that he is driver by profession. On 21.01.2023, he had purchased a Alto Car No. HP73-8472 from Pradeep Kumar through affidavits Ext. P22/PW-6 and Ext. P23/PW-6. He has stated that he and his brother Jeet Singh @ Anju, used to ply this vehicle. It has come on record that the present applicant/appellant was driving the vehicle in question and the contraband was found below the driver seat. Therefore, the submission of the learned counsel for the applicant/appellant that the contraband was not found from the conscious possession of the applicant/appellant is liable to be rejected.

11. Learned Court below vide its judgment of conviction and order of sentence dated 29.03.2025 convicted the applicant/appellant under Section 20 of the ND& PS Act for

ten years and to pay fine of Rs. One lakh and in default of payment of fine, he was further directed to undergo simple imprisonment for one year. For the purpose of determination of the present application, the learned counsel for the applicant has failed to make out a prima facie case for suspension of the sentence and he has also failed to point out how there are fair chances of acquittal of the applicant.

12. The Hon'ble Supreme Court in ***Preet Pal Singh vs. State of Uttar Pradesh (2020) 8 SCC 645*** has held as follows:-

“35. There is a difference between grant of bail under Section 439 CrPC in case of pre-trial arrest and suspension of sentence under Section 389 CrPC and innocence, which is a fundamental postulate of criminal jurisprudence, and the courts may be liberal, depending on the facts and circumstances of the case, on the principle that bail is the rule and jail is an exception, as held by this Court in Dataram Singh v. State of U.P. (2018) 3 SCC 22 However, in case of post-conviction bail, by suspension of operation of the sentence, there is a finding of guilt and the question of presumption of innocence does not arise. Nor is the principle of bail being the rule and jail an exception attracted, once there is conviction upon trial. Rather, the court considering an application for suspension of sentence and grant of bail, is to consider the prima facie merits of the appeal, coupled

with other factors. There should be strong compelling reasons for grant of bail, notwithstanding an order of conviction, by suspension of sentence, and this strong and compelling reason must be recorded in the order granting bail, as mandated in Section 389(1) CrPC."

13. Taking into consideration the entire factual matrix, we do not deem fit to suspend the sentence during the pendency of the appeal. Therefore, the present application being devoid of any merit deserves to be dismissed and is accordingly dismissed.

14. Before parting, it is made clear that any observation made here-in-above shall not be taken as an expression of opinion on the merits of the main case and the same shall be adjudicated upon uninfluenced by any observation made here-in-above, which are only for the purpose of the instant application.

(Vivek Singh Thakur)
Judge

(Romesh Verma)
Judge

December 31, 2025(Nisha)