

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.MP(M) No. 2965 of 2025

Reserved on : 29.12.2025

Decided on : 31.12.2025

Janak Raj

...Applicant

Versus

State of Himachal Pradesh

...Respondent

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?

For the applicant : Mr. Nand Lal Thakur, Mr. Udayanand Sharma and Mr. Kiran Kumar Advocates.

For the respondent : Mr. Mohinder Zharaick, Additional A.G. with Ms. Avni Kochhar, Deputy A.G., assisted by ASI Mohinder Singh, Police Station Indora, District Kangra, H.P.

Virender Singh, Judge

Applicant-Janak Raj has filed the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'),

for releasing him, on bail, during the pendency of the trial, arising out of **FIR No. 142/2025, dated 31.08.2025, under Section 21 of the Narcotic Drugs & Psychotropic Substances Act** (hereinafter referred to as the 'ND&PS Act'), registered with **Police Station Indora, Police District Nurpur**, District Kangra, H.P.

2. According to the applicant, he is innocent person and has falsely been implicated, by the police, in the present case.

3. According to the applicant, he has no concern, whatsoever, with the recovery of the alleged contraband. The investigation of the present case is stated to be complete and applicant has further pleaded that he is no longer required for custodial interrogation by the police, in this case.

4. According to the applicant, apart from the present case, ten other cases have been registered against him, out of which, seven cases are of ND&PS Act, one is under Excise Act and two are under IPC. In four cases, he

had been acquitted and one case has been compromised. According to the applicant, five cases are still pending against him.

5. According to the applicant, the contraband allegedly recovered, does not fall within the definition of commercial quantity, as such, rigors of Section 37 of the ND&PS Act are not applicable, in the present case.

6. The applicant has earlier tried his luck by moving application before the Court of learned Special Judge, Nurpur, District Kangra, H.P., however, said application has been dismissed on 09.12.2025.

7. On the basis of the grounds as taken in the bail application, 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, ordered to be released on bail, during the pendency of the trial.

8. On the basis of the above facts, a prayer has been made to allow the bail application.

9. When, put to notice, the police has filed the

status report, disclosing therein, that on 31.08.2025, SDPO Indora, has given authorization under Section 41(2) of ND&PS Act, for the search of the house/premises of Janak Raj son of Sh. Chaman Lal (applicant). In order to comply with the said order, ASI Mohinder Singh, along with other police officials and requisite instruments, proceeded towards village Tamota, in private vehicle bearing No. HP81-0937. When, they reached at Main Road of village Tamota, then, Ward Member Smt. Sumita Sharma along with Ward Member Surender Kumar, met them. Both of them were apprised about the authorization letter.

9.1 Thereafter, both of them were associated and the police team proceeded towards the house of Janak Raj (applicant). At about 6:10 pm, when, they reached near the house of Janak Raj (applicant), from the gate of the house, ASI called the inhabitant, upon which, one person came out, who on enquiry disclosed his name as Janak Raj son of Sh. Chaman Lal, resident of Village Tamota, Tehsil Indora, District Kangra, H.P. (applicant).

9.2 Thereafter, on further enquiry, he disclosed that

he is all alone in his house. Thereafter, the I.O. had apprised the applicant about the authorization letter. The house of Janak Raj (applicant) was searched, after giving the personal search of the police party to the applicant. During search of the house, underneath the mattress over the double bed, currency notes of Rs. 10,500/- were found. In the next room, under mattress, a transparent Zip pack envelope was found, which on checking was found to be containing brown coloured substance. On checking the substance on drug detection kit, the same was found to be heroin/chitta. On weighment, the recovered chitta was found to be 7.6 grams.

9.3 Other codal formalities were completed. Contraband was taken into possession. As per the status report, following cases have been found registered against him:-

1. *FIR No. 160/2020, dated 19.09.2020, under Section 21 of ND&PS Act of Police Station Indora;*
2. *FIR No. 91/2021, dated 03.06.2021, under Section 21 of ND&PS Act of Police Station Indora;*
3. *FIR No. 36/2023, dated 06.03.2023, under Section 21 of ND&PS Act, of Police Station Indora;*
4. *FIR No. 65/2024, dated 05.05.2024, under Section 26 of ND&PS Act, of Police Station Indora; and*

5. *FIR No. 162/2024, dated 22.10.2024, under Section 21 of ND&PS Act of Police Station Indora.*

9.4 The contraband was sent to FSL Junga, from where, positive report has been received. The investigation is complete and the charge-sheet has been filed on 17.10.2025, before the Court of learned ASJ-1 Nurpur, for prosecution evidence.

9.5 On the basis of above facts and highlighting the criminal history of the applicant, a prayer for dismissal of the application has been made.

10. First of all, so far as the registration of five other cases against the applicant, is concerned, admittedly, in none of the cases, the applicant has been convicted by the competent Court of Law. Moreover, the police has not made any effort to get the bail cancelled, in the above noted cases. Even otherwise, registration of the cases, is too short, to take away the presumption of innocence from the applicant, as the applicant is presumed to be innocent, unless proven guilty.

11. The investigation, in the present case, is

complete and case is now listed for PWs in the month of March, 2026, as such custodial interrogation of the applicant is no longer required. From the said fact, it can be said that chances of conclusion of the trial, against the applicant, in near future, are not so bright.

12. Moreover, dismissal of the bail application is pre-trial punishment, which is prohibited under the law. As such, the applicant cannot be kept in the judicial custody, that too, for indefinite period.

13. The contraband, allegedly recovered, in this case, does not fall within the category of commercial quantity, as such, rigors of Section 37 of ND&PS Act, are not applicable, in the present case.

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

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

16. Consequently, the applicant is ordered to be released, on bail, in case **FIR No. 142/2025, dated 31.08.2025**, registered **under Section 21 of the ND&PS Act, with Police Station Indora, Police District Nurpur**, District Kangra, H.P., on his furnishing personal bonds in the sum of Rs. 1,00,000/-, with two sureties of the like amount each, to the satisfaction of the learned trial Court.

17. 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 the 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.”

18. 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.

19. 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.

20. The Registry is directed to forward a soft copy of the bail order to the Superintendent of Jail, District Jail Una, H.P. through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

21. In case, the applicant is not released within a period of seven days from the date of grant of bail, the Superintendent of Jail, District Jail Una, H.P., is directed to inform this fact to the Secretary, DLSA, Kangra. The Superintendent of Jail, District Jail Una, H.P. 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.

(Virender Singh)
Judge

31st December, 2025

(Pramod Kumar)

RAJNI

Digitally signed
by RAJNI
Date: 2025.12.31
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