

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MP (M) No. : 2971 of 2025****Reserved on : 29th December, 2025****Decided on : 31st December, 2025**

Harcharan Singh

...Applicant

Versus

State of Himachal Pradesh

...Respondent

Coram**The Hon'ble Mr. Justice Virender Singh, Judge.***Whether approved for reporting?¹*

For the applicant : Mr. Khem Raj, Advocate.

For the respondent : Mr. Mohinder Zharaick, Additional Advocate General with Ms. Avni Kochhar Mehta, Deputy Advocate General, assisted by ASI Ajay Kumar, Police Station, Sadar Chamba, District Chamba H.P.

Virender Singh, Judge

Applicant-Harcharan Singh, has filed the present application, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (hereinafter referred to as the 'BNSS'), seeking the relief of bail, during the pendency of the trial, arising out of **FIR No.237/2025, dated 2nd October, 2025**, registered with **Police Station, Sadar Chamba, District Chamba, H.P., under Sections 21 and**

¹ *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

29 of the Narcotic Drugs & Psychotropic Substances Act (hereinafter referred to as the 'NDPS Act').

2. According to the applicant, he is innocent person and has falsely been implicated, by the Police, in this case. According to him, the police could not collect any evidence to connect the applicant with the crime in question.

3. It is the further case of the applicant that the contraband allegedly 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.

4. As per the applicant, investigation, in the present case, is complete and no useful purpose would be served by keeping the applicant in judicial custody, that too, for indefinite period.

5. According to the applicant, apart from the present case, FIR No. 40, dated 26.02.2025, under Section 21 of the NDPS Act, with Police Station Chamba and FIR No.110 dated 27.08.2022, under Sections 15 and 29 of the NDPS Act, with Police Station Sujampur, District

Pathankot, Punjab, have also been registered against him. Trial of these two cases is stated to be pending.

6. The applicant has earlier tried his luck, by moving similar application, before the Court of learned Special Judge-II, Chamba, however, his application has been dismissed on 27.11.2025.

7. Apart from this, Mr. Khem Raj, Advocate, 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 application.

9. When put to notice, the police has filed the status report, disclosing therein, that on 02.10.2025, HC Sanjay Kumar, I.O. No.64, along with other police officials, was on patrolling duty and duty to detect crime, relating to narcotic drugs.

9.1. At about 02.15 a.m., the police party had put the picketing at Ied Nallah, on Chamba Tissa road near rain shelter. During picketing, the I.O., noticed a tipper

No.PB06AK 2943, being driven by its driver, coming from Pukhari side towards Chamba. HC Sanjay Kumar signalled the driver to stop the said truck.

9.2. On inquiry, the driver disclosed his name as Sanjay Kumar son of Chamaru Ram. When the I.O. was talking with Sanjay Kumar, meanwhile, a motorcycle bearing registration No.PB46AN-1810, was moving towards Chamba side.

9.3. The pillion rider was found keeping a black coloured ruck sack near his legs. On seeing the police party present there, the motorcyclist, all of a sudden, stopped the motorcycle and the pillion rider threw the ruck sack towards the right side of the road.

9.4. Thereafter, the motorcyclist tried to turn back his motorcycle, upon which, HC Sanjay Kumar, developed a suspicion, as such, he has nabbed the motorcyclist and the pillion rider with the help of other police officials. Thereafter, HC Sanjay Kumar, inquired the motorcyclist about the reason for throwing the ruck sack and fleeing away from the spot, upon which, both of them became perplexed and could not give satisfactory answer.

9.5. Thereafter, suspicion has raised in the mind of the I.O., as such, they have inquired about their antecedents. On inquiry, the motorcyclist has disclosed his name as Vishal Sharma son of Kamal Sharma and the pillion rider disclosed his name as Harcharan Singh (applicant).

9.6. Thereafter, the tipper driver Sanjay Kumar and the official from the pillion were associated as witnesses and ruck sack thrown by the pillion rider was checked. On opening, the same was found containing other articles, along with white coloured polythene envelope. When, the knot of the same was untied, the same was found containing brown coloured granular shaped substance, which, on checking on drug detection kit, was found to be Heroin/Chitta.

9.7. On weighment, the said Chitta was found to be 10.26 grams. The said contraband was taken into possession.

10. After completion of the codal formalities, the FIR was registered and the accused was arrested. Thereafter, the contraband, after conducting inventory

proceedings, was sent to SFSL Junga, from where, positive report has been received.

11. It has also been mentioned, in the status report, that investigation, in the present case, is complete and the charge-sheet has been filed, in the Court of learned Special Judge, Chamba on 28.11.2025.

12. It has also been mentioned, in the status report, that as per the record, following cases are found to have been registered against the applicant:-

- i) *FIR No.09, dated 01.04.2013, registered under Sections 379 and 427 IPC Police Station Jander, District Amritsar, Punjab.*
- ii) *FIR No.22, dated 24.04.2013, registered under Sections 379 and 411 IPC Police Station Jander, District Amritsar, Punjab.*
- iii) *FIR No.110, dated 27.08.2022, under Sections 15 and 29 of the NDPS Act, with Police Station Sujanpur, District Pathankot, Punjab.*

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

14. So far as registration of other cases, against the applicant, out of which, one is under the provisions of NDPS Act, is concerned, admittedly, in those cases, the

applicant has not been convicted by the competent Court of law.

15. Mere registration of the cases, does not take away the presumption of innocence, which is still available to the applicant, since, person is presumed to be innocent until proven guilty, after the trial.

16. Moreover, the status report is totally silent about the fact as to whether any effort has been made by the Police to get the bail, in those cases, cancelled.

17. The contraband allegedly 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.

18. The investigation, in the present case, is complete and the applicant is in judicial custody. As such, this Court is of the view that no useful purpose would be served by keeping the applicant, in judicial custody, that too, for indefinite period, as the chances of commencement and conclusion of the trial, against the applicant, in near future, are not so bright.

19. Moreover, the application cannot be rejected as a matter of punishment, as pre-trial punishment is prohibited under the law. Punishment can only be imposed, after the full fledged trial.

20. Considering all these facts, this Court is of the view that the bail application is liable to be allowed and is accordingly allowed. The applicant is ordered to be released on bail, in case **FIR No.237 of 2025, dated 02.10.2025**, registered, **under Sections 21 and 29 of the NDPS Act**, with **Police Station, Sadar Chamba, District Chamba, H.P.**, on his furnishing personal bond, in the sum of Rs.50,000/-, with one surety, in the like amount, to the satisfaction of learned trial Court.

21. This order of release, however, shall be subject to the following conditions :-

- “a) 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) Applicant shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;*
- c) 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) Applicant shall not leave the territory of India without the prior permission of the Court.”

22. Any of the observations made herein above 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.

23. 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.

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

25. 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, Chamba, District Chamba, is directed to inform this fact to the Secretary, DLSA, Chamba. The Superintendent of Jail, District Jail, Chamba, District Chamba, 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.

December 31, 2025 (*ps*)

(Virender Singh)
Judge

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