

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr.MP No. 741 of 2026 in Cr. Appeal No. 612 of 2019****Reserved on: 27.8.2026****Decided on: 01.9.26****Uploaded on: 01.9.2026****Deep Ram.****...Appellant/Applicant.****Versus****State of Himachal Pradesh.****...Respondent.*****Corum******Hon'ble Mr. Justice Vivek Singh Thakur, Judge.******Hon'ble Mr. Justice Ranjan Sharma, Judge.******Whether approved for reporting?¹ Yes.******For the Applicant.******Mr. N.S. Chandel, Senior Advocate with Mr.Vinod Kumar Gupta and Ms.Kanika Verma, Advocates.******For the Respondent:******Mr.J.S. Guleria, Deputy Advocate General.******Vivek Singh Thakur, Judge***

The applicant/appellant has been convicted under Section 18 (a) and Section 20 (ii) read with Sections 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') by Special Judge-I, Shimla, vide judgment dated 27.8.2019 and he has been sentenced to undergo rigorous imprisonment for 20 years and to pay a fine of ₹2,00,000/- under Section 20 read with Sections 25 and 29 of the NDPS Act, and in default of payment of fine, to further undergo rigorous imprisonment for 3 years; and rigorous imprisonment for 20 years and to

¹***Whether the reporters of the local papers may be allowed to see the Judgment? Yes***

pay a fine of ₹2,00,000/- under Section 18 read with Sections 25 and 29 of the NDPS Act, and in default of payment of fine, to further undergo rigorous imprisonment for 3 years.

2. The present application for suspension of sentence was filed in March, 2026 and response to the application was filed on 25.3.2026. Thereafter, the main appeal was listed for final hearing on 26.5.2026 and was adjourned as a part-heard matter for continuation on 2.6.2026. This application was ordered to be listed along with main appeal on next date. However, on 2.6.2026, the main appeal was adjourned to 4.6.2026 and thereafter, hearing was continued and matter was adjourned for further continuation to 17.6.2026. On 17.6.2026, the matter was adjourned on account of the non-availability of the learned Deputy Advocate General who had prepared the matter on behalf of State, and was adjourned for continuation to 22.6.2026. This application was also adjourned for the said date. However, on 22.6.2026, 25.6.2026, 29.6.2026, and 1.7.2026, appeal could not be heard due to paucity of time.

3. On 2.7.2026, matter was heard further and was adjourned to 9.7.2026, on which date it was adjourned for and thereafter for 15.7.2026, 21.7.2026, 22.7.2026, and 31.7.2026.

4. On 31.07.2026, on joint request, matter was adjourned for 13.8.2026. However, on that day, as the Court time was over and the matter was not called out being not reached, it was remitted to the

concerned official Branch and thereafter matter was listed on 25.8.2026.

On 25.8.2026, the matter was adjourned to 27.8.2026.

5. It has been submitted by learned Senior Advocate for the applicant that for one reason or another, appeal is being adjourned despite the fact that the appeal is on hearing board and hearing in which is taking place on regular intervals as far as possible on nearest dates.

6. It has been further submitted by learned Senior Advocate for the applicant that keeping in view the past record as well as period of incarceration of the applicant, sentence imposed upon the applicant deserves to be suspended during pendency of the appeal.

7. Section 479 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short BNSS) has also been relied upon by the learned Senior Advocate for the applicant to substantiate the claim for suspension of substantive sentence imposed upon the applicant. Relevant portion of Section 479 of the BNSS reads as under:-

“479. Maximum period for which under-trial prisoner can be detained.—(1) Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail:

Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released

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on bond by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law:

Provided further that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail in bond other than on personal bond with or without sureties:

Provided also that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation.—In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded.

(2) Notwithstanding anything contained in sub-section (1), and subject to the third proviso thereof, where an investigation, inquiry or trial in more than one offence or in multiple cases are pending against a person, he shall not be released on bail by the Court.

(3) The Superintendent of jail, where the accused person is detained, shall, on the completion of one-half or one-third of the period mentioned in sub-section (1), as the case may be, forthwith make an application in writing to the Court to proceed under sub-section (1) for the release of such person on bail."

8. It has been submitted that in the present case, maximum prescribed sentence is 20 years and there is no past record of involvement of applicant in criminal acts, much less in supply of drugs. It has been, therefore, submitted that by applying the principle of Section 479 of the BNSS, wherein it has been provided that in case a person, who is first time offender, is behind the bars up to one-third of the maximum period

specified for the said offense under law, he shall be released by the Court on bail. It has been submitted that applicant/appellant is first time offender and one-third of prescribed sentence period of total prescribed sentence of 20 years would be 6 years and 8 months, whereas applicant has already served sentence of more than 9 years and thus, he is entitled for suspension of his sentence.

9. It has further been urged that the application remained pending since March 2026, for the reason that appeal was on hearing board and every time it was expected that arguments therein shall be concluded and applicant has served more than 9 years of sentence and keeping in view number of witnesses and pace of appeal pending adjudication in this Court, benefit of provisions of Section 479 of the BNSS, can be extended to the applicant.

10. Submissions have been made on behalf of applicant that he is first time offender and never found indulged in commission of such heinous crime and thus, he is entitled to be enlarged by suspending his sentence.

11. On the other hand, learned Deputy Advocate General has submitted that applicant has been convicted for commission of a heinous crime that causes immense harm to society as well as the Nation, and therefore, he is not entitled to suspension of sentence.

12. As recorded supra, though appeal is on hearing board, but for one and other reasons, hearing in the matter could not be concluded and

therefore, as prayed by Mr. N.S. Chandel, Senior Advocate, for the applicant that applicant/applicant can be enlarged by suspending his sentence like other three co-accused namely Mehar Singh, Aman Thakur, and Vipin Sharma.

13. At this stage, it would be relevant that though Mr. Ajay Kochhar and Mr. Nareshwar Singh Chandel, Senior Advocates and Mr. Vaibhav Tanwar, Advocate have concluded the arguments on previous date, but now for reconstitution of the Bench, entire arguments are to be heard afresh by newly constituted Bench and, therefore, there shall be further delay in hearing the appeal.

14. Keeping in view the aforesaid facts and period of detention as well as nature of the offense, and possibility of prolonged hearing in the appeal, applicant deserves to be enlarged on bail by suspending his sentence during the pendency of the appeal.

15. Accordingly, substantive sentence imposed upon the applicant is directed to be suspended during the pendency of the appeal, subject to his furnishing personal bond in the sum of ₹2,00,000/- with one surety in the like amount to the satisfaction of the learned Trial Court on or before 16.9.2026, with undertaking therein to appear in this Court as and when directed to do so, and to surrender to serve the balance term of conviction in case the appeal is ultimately dismissed.

16. It is made clear that the applicant shall not indulge in commission of any offense, much less an offense under the NDPS Act. In case of any such eventuality, suspension of sentence of the applicant shall be liable to be cancelled.

17. Bail bonds so furnished by the applicant shall be transmitted by the Trial Court to the Registry of this Court, for being placed on record of this case.

18. Any expression of opinion given in this order does not mean an expression of opinion on the merits of the case and the same has been given only for the purpose of deciding present application.

19. Parties are permitted to produce a copy of this order downloaded from the web-page of the High Court of Himachal Pradesh, before the Trial Court, and the Trial Court shall not insist for production of certified copy of order, rather Trial Court shall verify passing of this order from the web-page of the High Court.

The application is allowed and disposed of in aforesaid terms.

***(Vivek Singh Thakur),
Judge.***

***(Ranjan Sharma),
Judge.***

1st September, 2026
(Keshav)