

**IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

Cr.MP(M) No. 531 of 2026
Reserved on.: 10.07.2026
Announced on: 14.07.2026

Suraj Kumar

.....Petitioner

Versus

State of Himachal Pradesh

.....Respondent

Coram:

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹ *Whether approved for reporting? Yes.*

For the petitioner: Mr. Dixit Sahotra & Ms. Kalaunta
Devi, Advocate(s) vice Mr. Sanjeev
Kumar Suri, Advocate.

For the respondent: Mr. J.S.Guleria, Deputy Advocate
General, for the Respondent.

Ranjan Sharma, Judge

Bail petitioner [Suraj Kumar], **being in custody since 06.03.2024**, has come up before this Court, *seeking bail*, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, (*referred to as BNSS*) originating from *FIR No. 33 of 2024 dated 06.03.2024*, registered at Police Station Chowari, District Chamba, [H.P.], under *Section 20 and 29 of the Narcotic Drugs*

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

and Psychotropic Substances Act (referred to as the NDPS Act).

FACTUAL MATRIX:

2. Case set up by Learned Counsel Mr. Dikshit Kumar, who was assisted by Ms. Kalunta Devi is that on 6.3.2024, the police party laid a Naka at Police Check Post Tunnuhatti and while they were checking the vehicles at about 11.30 a.m, an HRTC bus bearing registration No. HP-73-2697 enroute Chamba to Pathankot came from BaniKhet side was signalled to stop by the police. During checking three persons were found sitting on seat No. 40, 41 and 42 in the said bus and the petitioner-accused was sitting on seat No. 41. During checking the petitioner Suraj Kumar opened the bag and alleged contraband was found inside the bag, which was found to be Charas/Cannabis. On weighing, the alleged contraband was found to be 1 kg. 126 grams. After completing the codal formalities, Rukka was sent, which led to registration of F.I.R against the bail petitioner and two other accused, namely, Pawan Kumar and Jitender Singh.

2(i). It is averred that the bail petitioner is innocent person and he has been falsely implicated in the F.I.R. It is averred that the police has completed the Investigation and Challan has been filed before the Special Judge, Chamba. It is averred that the prosecution intended to examine 22 PWs, out of which 16 PWs have been examined till day [i.e. date of filing of instant bail petition on 31.3.2026] It is averred that the petitioner is not at fault for delay in trial. It is averred that the prolonged incarceration has violated the personal liberty of the petitioner as enshrined in Article 21 of the Constitution of India.

2(ii). It is averred that the bail petitioner had filed an application for bail before the Learned Special Judge, Chamba bearing Bail Application No. 115/2025, which was dismissed as withdrawn on 24.07.2025 [Annexure P-2]; and second bail application was filed before Learned Special Judge, Chamba registered as Bail Application No. 129 of 2025 which was dismissed as withdrawn on 7.8.2025 [Annexure P-3]. The third bail application was filed before this Court as Cr.MP(M) No.

2359 of 2025, which was also dismissed as withdrawn on 23.12.2025 [Annexure P-4] and the petitioner again filed a bail application No. 63 of 2026 before Learned Special Judge, Chamba, which was dismissed on 11.03.2026 [Annexure P-5].

2(iii). It is averred that the prosecution had not complied with the mandatory safeguard under the NDPS Act as no option of his search was given. It is averred that the statements of PWs are inconsistent and contradictory and some material witnesses have turned hostile which weakens the prosecution case. It is averred that the bail petitioner is in custody for about two years and prolonging the incarceration is violative of Article 21 and the mandate of the judgements referred to in Para 10 of the bail petition. It is averred that the bail petitioner belongs to a respectful family and petitioner has undertaken to abide by all terms and conditions as may be imposed by this Court. Bail petitioner has undertaken that in the event of grant of bail, he would not jump over the bail and will not tamper the prosecution evidence in any manner. It is averred

that the another co-accused, namely, Pawan Kumar has been granted bail in Cr.MP(M) No. 596 of 2025 on 4.7.2025 [Annexure P-7] and therefore on the principle of parity, the petitioner deserves to similar treatment. It is averred that the petitioner has no criminal antecedents. It is averred that there is no evidence to connect the bail petitioner with the offence in question.

In this backdrop, the petitioner has filed the bail application through his father Shri Balbir Kumar, with the prayer for releasing the petitioner on bail.

PROCEEDINGS BEFORE THIS COURT:

3. Instant bail application, Cr.MP(M) No. 531 of 2026 was listed before this Court on 10.04.2026, when for the non-availability of Learned original Counsel and on prayer of Learned vice Counsel, the matter was adjourned for 30.04.2026. Upon listing of the matter on 30.04.2026, again a prayer for adjournment was made due to non-availability of the original counsel who was stated to be contesting election to the Bar Council of Himachal Pradesh and accordingly the matter was adjourned for 15.05.2026. The matter was again

listed on 15.05.2026 when, on the request of the vice counsel appearing for the petitioner the matter was again adjourned for non-availability of the original counsel on account of personal exigencies and the matter was posted for 5.6.2026. Instant bail application was listed on 5.6.2026, when, the original counsel appeared but prayed for an adjournment and accordingly the matter was adjourned for 19.06.2026. Upon listing of the matter on 19.06.2026, Learned vice counsel prayed for an adjournment and, as prayed, the matter was adjourned for 10.07.2026. Upon listing of matter today [on 10.07.2026] Learned vice counsel(s) appeared for the petitioner and addressed the arguments.

4. *Per contra*, the claim for bail was vehemently opposed by Mr. J.S.Guleria, Learned Deputy Advocate General for the Respondent-State.

5. Heard, Mr. Dixit Sahotra Advocate assisted by Ms. Kalaunta Devi, Learned Vice Counsel(s) for the petitioner and Mr. J.S.Guleria, Learned Deputy Advocate General for the Respondent-State.

MANDATE OF LAW ON BAIL IN GENERAL:

6. *In general*, the broad parameters regulating the claim for bail have been spelt out in **Gurbaksh Singh Sibbia versus State of Punjab** (1980) 2 SCC 565, **Ram Govind Upadhyay versus Sudarshan Singh** (2002) 3 SCC 598; **Kalyan Chandra Sarkar versus Rajesh Ranjan**, (2004) 7 SCC 528; **Prasanta Kumar Sarkar versus Ashish Chatterjee**, (2010) 14 SCC 496; reiterated in **P. Chidambaram versus Directorate of Enforcement**, (2019) 9 SCC 24, **Sushila Aggarwal versus State-NCT Delhi**, (2020) 5 SCC 01; **CBI versus Santosh Karnani** (2023) 6 SCALE 250; which have been reiterated by the Hon'ble Supreme Court in **State of Haryana versus Dharamraj**, 2023 SCC Online SC 1085, that *bail is to be granted* where the allegations are frivolous or groundless and incase neither any prima facie case nor reasonable grounds exists to believe or point towards the accusation. However, depending upon the facts of each case, the bail can be refused, in case, prima facie case or reasonable grounds exists and if an offence is serious. Severity of punishment, including reasonable apprehension of fleeing away from investigation and trial; and the

character; past antecedents; behavior; means; position and standing of an accused; likelihood of offence being repeated; reasonable apprehension of witnesses being influenced and danger of justice being thwarted by grant of bail etc. are relevant factors for denying the concession of bail. The Hon'ble Supreme Court in **Criminal Appeal No. 3840 of 2023, Saumya Churasia versus Directorate of Enforcement**, decided on 14.12.2023 held that the claim for bail, is to be examined by a Court, without delving into the evidence on merits, but by forming a prima-facie opinion on totality of facts in light of broad-parameters referred to above.

**MANDATE OF LAW ON BAIL INVOLVING
COMMERCIAL QUANTITY OF CONTRABAND
UNDER NDPS :**

7. *In NDPS matters*, while dealing with the claim for bail involving commercial quantity, the Court has to bear in mind that the provisions of Section 37 of the NDPS Act are mandatory in nature and the *sine qua non* for granting bail to an accused involved in such offences is to grant an opportunity to the Public Prosecutor to oppose the application for

release and a Court has to record its satisfaction on twin conditions, *firstly*, that there are reasonable grounds for believing that an accused is not guilty of the alleged offence and secondly, the accused is not likely to commit any offence while on bail as per the mandate of law declared by Hon'ble Supreme Court in the cases of State of Madhya Pradesh vs **Kajad, (2001) 7 SCC 673**; and by Three Judge Bench in NCB vs **Mohit Aggarwal (2022) 18 SCC 374**; Union of India vs **Ajay Kumar Singh alias Pappu 2023 SCC OnLine SC 346**; Narcotics Control Bureau vs **Kashif (2024) 11 SCC 372**; and in State of Meghalaya vs **Lalrintluanga Sailo and another (2024) 15 SCC 36**; State of Punjab vs **Sukhwinder Singh @ Gora 2026 SCC OnLine SC 671** and recording of such satisfaction, on twin aspects, by a Court, is not a mere formality but a mandatory pre-condition and without recording its satisfaction, the claim for bail cannot sustain; and even though the right to speedy trial rooted in Article 21 of the Constitution is undoubtedly a precious Constitutional right yet while

dealing with claim for bail under special enactment such as the NDPS Act, particularly where the recovery is of commercial quantity, the said right under Article 21 must be exercised within the framework of Section 37 and the constitutional right under Article 21 and the special provision of law under Section 37 NDPS Act are to be read harmoniously and not placed in opposition to each other; and the aforesaid principle has been reiterated by the Hon'ble Supreme Court in the recent judgement in the case of State of Punjab vs **Balraj Singh alias Billa, 2026 SCC OnLine SC 1058.**

ANALYSIS:

8. Taking into account the entirety of the facts and circumstances and the material on record and the submissions made by Learned Vice Counsel(s) for the petitioner and Learned State Counsel, this Court is of the considered view, that the bail petitioner [Suraj Kumar], is not entitled to be enlarged on bail, in the instant case, at this stage, *for the following reasons:*

SATISFACTION OF COURT ON TWIN CONDITIONS OF SECTION 37(1)(B) OF THE NDPS ACT:

9. For appreciating the claim of the petitioner, it is necessary to have a recap of the mandate of Section 37 of the NDPS Act, *which reads as under:*

37. Offences to be cognizable and non-bailable:

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)-

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless-

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.

9(i). In the backdrop of the statutory provisions of Section 37(1)(b) of the NDPS Act, this Court proceeds to analyse the claim of the petitioner in the instant case hereinafter:

[A]. NO REASONABLE GROUNDS EXIST THAT PETITIONER NOT GUILTY:

9(i.a). Based on the mandate of Section 37(1)(b) of the NDPS Act, Learned Vice Counsel(s) for the petitioner have not been able to establish that reasonable grounds exist for believing that the bail petitioner [Suraj Kumar] is not guilty of the offence, in question, in instant case.

9(i.b). Per contra, Learned State Counsel Mr. J. S. Guleria has opposed the claim for bail on the ground that the material on record negates the claim of the bail petitioner. Material on record reveals that reasonable grounds exist to believe that the bail petitioner is guilty of the offence, in view of the fact that the alleged bag containing contraband was found by police from the lap of the bail petitioner [Suraj Kumar] and aforesaid bag was opened by bail petitioner [Suraj Kumar] in which the alleged contraband containing

1 kg. 126 grams of Cannabis was found to have been wrapped in a polythene bag. Learned State Counsel points out that commercial quantity of contraband i.e. Charas-Cannabis was recovered from the bail petitioner who was travelling alongwith other co-accused, namely, Pawan Kumar and Jitender Singh.

9(i.c). In rebuttal, Learned Counsel(s) for the petitioner have not placed anything on record to assert and establish that the bail petitioner was not guilty of the offence. Nothing has been placed on record to establish and assert, at this stage, that the recovery of alleged contraband was not effected from the bail petitioner.

In these circumstances, once the recovery of alleged contraband was prima facie found from the bag kept by the bail petitioner [Suraj Kumar] in his lap and said bag was opened by him, on being asked by the police and the bag contained contraband, therefore, this Court is satisfied that the bail petitioner is guilty of the offence and the Counsel(s) for the petitioner have

failed to assert and establish, at this stage, that the bail petitioner is not guilty of the offence in question.

[B] PETITIONER LIKELY TO COMMIT ANY OFFENCE WHILE ON BAIL:

10. Learned Vice Counsel(s) have not been able to establish that in case of release the bail petitioner is not likely to commit any offence while on bail.

Per contra, Learned State Counsel opposes the claim with the submission that once the bail petitioner had actively been involved in possessing, transporting and carrying the alleged contraband containing [Cannabis/Charas] and that too of a commercial quantity, which is punishable for a maximum of 20 years, then, there is every likelihood that the bail petitioner may indulge in an offence even after release on bail.

Based on the discussion made in Paras 9 and 10 [supra] and in facts of instant case, this Court is satisfied that no reasonable grounds exist for believing that the bail petitioner [Suraj Kumar] is not guilty of the offence and that he is not likely to commit any offence after release on bail. *Conversely*, the material on record goes on to prima-facie establish, at this stage, that the

bail petitioner is guilty of the alleged offence as the bail petitioner had kept the bag in his lap and aforesaid bag was opened by the bail petitioner in the presence of police, which contained commercial quantity of contraband and therefore, in these circumstances, this Court is satisfied that the bail petitioner is guilty of the offence and is likely to commit any offence in case of release on bail. Accordingly, upon analyzing the claim on twin pre-conditions Section 37(1)(b) of NDPS and the declaration of law by the Hon'ble Supreme Court in the case of in **B. Ramu, Kashif, Namdeo Ashruba Nakade, Sukhwinder Singh @ Gora, Balraj Singh** [infra] no case for bail is made out and the claim is turned down.

**PLEA THAT INVESTIGATION COMPLETED,
CHARGE SHEET FILED NO GROUND FOR BAIL:**

11. While dealing with the claim for bail the plea of an accused that since the investigation stands completed and chargesheet has been filed cannot be a ground for acceding to the prayer for bail, when as per Section 37(1)(b) of the Act, twin requirements establish that the petitioner was guilty of the recovery of commercial quantity of contraband in terms of the

mandate of Hon'ble Supreme Court in **State by the Inspector of Police versus B. Ramu, 2024 SCC OnLine SC 4073**, in the following terms:

9. A plain reading of statutory provision makes it abundantly clear that in the event, the Public Prosecutor opposes the prayer for bail either regular or anticipatory, as the case may be, the Court would have to record a satisfaction that there are grounds for believing that the accused is not guilty of the offence alleged and that he is not likely to commit any offence while on bail.
12. For entertaining a prayer for bail in a case involving recovery of commercial quantity of narcotic drug or psychotropic substance, the Court would have to mandatorily record the satisfaction in terms of the rider contained in Section 37 of the NDPS Act.
14. The fact that after investigation, the charge-sheet has been filed against the respondent-accused along with other accused persons, fortifies the plea of the State counsel that the Court could not have recorded a satisfaction that the accused was prima facie not guilty of the offences alleged.

12. Claim of an accused for bail was negated by the Hon'ble Supreme Court by mandating that the provisions of NDPS Act are required to be interpreted keeping in mind the object and purpose of the Act, as also the impact on the society as a whole with the further mandate that the provisions of the Act have to be interpreted literally and not liberally which may ultimately frustrate the object and preamble of the Act. While considering the application for bail regarding all satisfaction by the Court with respect to Section 37 of the NDPS Act are mandatory in nature as outlined by the Hon'ble Supreme Court in **Narcotics Control Bureau versus Kashif, 2024 SCC OnLine SC 3848** in the following terms:

39. The upshot of the above discussion may be summarized as under:
- (i) The provisions of NDPS Act are required to be interpreted keeping in mind the scheme, object and purpose of the Act; as also the impact on the society as a whole. It has to be interpreted literally and not liberally, which may ultimately frustrate the object, purpose and Preamble of the Act.

(ii) While considering the application for bail, the Court must bear in mind the provisions of Section 37 of the NDPS Act which are mandatory in nature. Recording of findings as mandated in Section 37 is sine qua non is known for granting bail to the accused involved in the offences under the NDPS Act.

(iii) The purpose of insertion of Section 52A laying down the procedure for disposal of seized Narcotic Drugs and Psychotropic Substances, was to ensure the early disposal of the seized contraband drugs and substances. It was inserted in 1989 as one of the measures to implement and to give effect to the International Conventions on the Narcotic drugs and psychotropic substances.

MANDATE OF SECTION CANNOT BE DISPENSED WITH:

13. Claim of an accused for bail, who was in custody for one year and four months, was negated on the ground that mere prolongation of custody cannot be a ground to dispense with the mandatory requirement of Section 37 of the NDPS Act, when, the recovery was of Commercial Quantity of contraband for which the

accused was punishable with 10 to 20 years of rigorous imprisonment and thus the prolongation of custody cannot be held to be unreasonable in terms of the mandate of the Hon'ble Supreme Court, in **Union of India versus Namdeo Ashruba Nakade 2025 SCC OnLine SC 3049**, in the following terms:

11. In the present case, this Court finds that though the Respondent-accused was in custody for one year four months and charges have not been framed, yet the allegations are serious inasmuch as not only is the recovery much in excess of the commercial quantity but the Respondent-accused allegedly got the cavities ingeniously fabricated below the trailer to conceal the contraband.
12. *Prima facie* this Court is of the opinion that the Respondent-accused is involved in drug trafficking in an organized manner. Consequently, no case for dispensing with mandatory requirement of Section 37 of the NDPS Act is made out in the present matter.
13. Moreover, this Court is of the view that as the accused has been charged with offences punishable with ten to twenty years rigorous imprisonment, it cannot be

said that the Respondent has been incarcerated for an unreasonably long time.

- 15.** Accordingly, the present criminal appeal is allowed and the impugned order dated 11.03.2025 passed by the High Court of Andhra Pradesh at Amaravati in Criminal Petition No. 727 of 2025 is set aside. The Respondent-accused is directed to surrender within a period of two weeks.

**RIGHT OF SPEEDY TRIAL UNDER ARTICLE 21 AND
PROLONGED INCARCERATION TO BE EXERCISED
WITHIN THE FRAMEWORK OF SECTION 37:**

- 14.** Learned State Counsel who has vehemently opposed the prayer for bail, states that the right to a speedy trial under Article 21 of the Constitution of India must be exercised within the framework of Section 37 of the NDPS Act and mere delay in trial cannot override or dilute the requirement of Section 37 of the NDPS Act. The contention has force, in view of the mandate of the Hon'ble Supreme Court, in **State of Punjab versus Sukhwinder Singh @ Gora 2026 SCC OnLine SC 671** in the following terms:

9. It is well-settled that in matters involving recovery of contraband in commercial quantity, the twin conditions

under Section 37 (1) (b) (ii) of the NDPS Act are mandatory and entail no relaxation merely on the ground that the accused has undergone prolonged incarceration during the pendency of trial. The provision casts upon the Court a duty to record, before enlarging an accused on bail, its satisfaction on two cumulative conditions, first, that there exist reasonable grounds for believing that the accused is not guilty of the offence charged; and second, that he is not likely to commit any offence while on bail. The recording of such satisfaction is not a mere formality but a mandatory pre-condition, the non-observance of which vitiates the grant of bail. This Court, in *Kashif* (supra), has held in no uncertain terms that the recording of satisfaction on the twin conditions under Section 37 is mandatory and not merely directory, and that an order granting bail without such recorded satisfaction stands vitiated and cannot be sustained. The same view stands reiterated in *Lalrintluanga Sailo* (supra).

10. The impugned order, on its own showing, *does not* record the satisfaction mandated under Section 37

(1) (b) (ii) of the NDPS Act. Far from recording such satisfaction, the High Court has gone on to observe that 'the rigours of Section 37 of the NDPS Act can be diluted bearing in mind the right to a speedy trial.' Such an approach is plainly contrary to the settled law laid down by this Court and deserves to be set aside on this ground alone. The right to speedy trial, rooted in Article 21 of the Constitution, is undoubtedly a precious Constitutional right. That said, in matters governed by a special enactment such as the NDPS Act, particularly where the recovery is of commercial quantity, the said right under Article 21 must be exercised within the framework of Section 37 and cannot be pressed into service solely on the ground of delay to override it. The constitutional right under Article 21 and the special provision of law under Section 37, NDPS Act are to be read harmoniously and not placed in opposition to each other. The High Court, by failing to record its satisfaction on the twin conditions under Section 37, has in this Court's view, committed an error.

15 While negating the claim for bail where claim of the respondent-accused merely on the basis of having undergone one year and seven months of detention when, the maximum sentence of 20 years was prescribed in case of offence relating to Commercial Quantity of contraband the Hon'ble Supreme Court has mandated that mere prolonged incarceration cannot be uniform ground for the grant for bail, when, no case for bail was made out under Section 37 of the NDPS Act with the further mandate that in case of conflict between the sovereignty of country and personal liberty, the sovereignty of the country shall prevail, as the supply of drugs vitally affects the national economy and health of the people as outlined by the Hon'ble Supreme Court, in **State of Punjab versus Balraj Singh alias Billas** **2026 SCC OnLine SC 1058**, in the following terms:

18. Upon consideration of the case of the respondent against the twin conditions laid down in Section 37, we are of the view that no case for bail is made out. There are antecedents involving commission of offences of the very same nature under the NDPS Act, therefore it cannot be said

that he is not likely to commit such an offence while on bail.

- 19.** Moreover, the respondent has only undergone 1 year 7 months, and if found guilty a maximum sentence of twenty years may be imposed upon him. Therefore, it cannot be said that he has suffered incarceration for a long period, warranting interference in view of Article 21 of the Constitution.
- 20.** While this Court has recognized on several occasions that prolonged incarceration warrants the grant of bail in view of Article 21 of the Constitution, we have noticed that the application thereof is not uniform. Moreover, there is no doubt that what constitutes “prolonged incarceration” for the purposes of bail, has not been expounded by this Court or the law of the land.
- 22.** However, we note that recently this Court in *Tasleem Ahmed v. State Govt. of NCT of Delhi* *Crl.A @ SLP(Crl.) No. 2867 of 2026* has referred the question concerning the approach of constitutional Courts in bail matters under special statutes, where “*Article 21, prolonged incarceration and statutory restrictions intersect*”. In view of the said reference, we do not wish to

deliberate on this issue further, save and except that in our view paramount consideration is nothing but interest of justice for all. Should there be any conflict between the sovereignty of country and personal liberty, undoubtedly, the former shall prevail, particularly, when a war is waged against the nation, be it in the form of supply of drugs, which vitally affects the national economy and health of the people.

Based on the factual matrix and the mandate of law as outlined by the Hon'ble Supreme Court in **B. Ramu, Kashif, Namdeo Ashruba Nakade, Sukhwinder Singh @ Gora, Balraj Singh @ Billas** and in facts of instant case, once the recovery of contraband was made by the police from the bag which was kept in his lap by the petitioner [Suraj Kumar] and the aforesaid Suraj Kumar had opened the bag in the presence of the police revealing the alleged contraband and contraband in question relates to a commercial quantity weighing 1 kg. 126 grams of Charas/Cannabis and the bail petitioner has not been able to satisfy that he was not guilty of the offence and he is not likely to commit any offence

while on bail, then, mere prolongation of incarceration cannot be the sole ground for acceding to the prayer for in instant case.

**CLAIM FOR BAIL ON PARITY NOT TENABLE
ON FACTS:**

16. Learned Vice Counsel(s) appearing for the petitioner had claimed parity by placing reliance on the order passed by this Court, in the case of **Pawan Kumar** versus State of Himachal Pradesh [Cr.MP(M) No.596 of 2025] to assert that once the co-accused has been released on bail, then, on the principle of parity similar concession should be given to the petitioner.

On perusal of the orders passed in the case of Pawan Kumar [supra], this Court is of the considered view that the case of present bail petitioner [Suraj Kumar] is not at par with Pawan Kumar co-accused, for the reason, that in the case of Pawan Kumar no such recovery of contraband was made from him. On the other hand, prima facie the material on record indicates that recovery was made from the bag being kept in his lap by the petitioner Suraj Kumar which was also opened by him in presence of the police on the said

day. In these circumstances, once the role of the bail petitioner Suraj Kumar is at variance with the role of co-accused Pawan Kumar, therefore, parity is not made out and the claim is devoid of any merits.

PLEA FOR BAIL DUE TO DELAYED TRIAL NOT TENABLE IN INSTANT CASE:

17. Learned Vice Counsel(s) by referring to Para 5 of the bail petition submits that prosecution intended to examine 22 witnesses whereas 16 PWs had been examined and once the trial was delayed without any fault attributable to the bail petitioner, then, the claim may be accepted.

Above contention of the Learned Counsel for the bail petitioner is disputed by Learned State Counsel who points out that the prosecution evidence stand closed by Learned Special Judge Chamba on 23.06.2026 [Order taken on record] and the matter has been fixed for recording the statement of the accused Suraj Kumar and others, under Section 313 Cr.P.C [now Section 351 of BNSS] on 9.7.2026, which has now been posted for 17.7.2026, revealing that the trial is at an advanced stage and is nearing completion and there

is likelihood of the conclusion of trial within next couple of months, therefore, the claim for bail cannot be accepted and the same is turned down.

PLEA FOR BAIL BASED ON INCONSISTENT AND CONTRADICTORY STATEMENTS OF PWS UNTENABLE:

18. Based on the submissions in Para 9 of the bail application, Learned Vice Counsel submits that the evidence of PWs recorded during the trial are inconsistent and contradictory and therefore, the petitioner may be released on bail.

The above plea cannot be acceded to, at this stage for the reason that, *firstly*, nothing has been placed on record to assert and establish glaring inconsistency and contradictions in the statements of PWs led before the Trial Court; and *secondly*, evaluation of evidence primarily falls within the domain of the Trial Court [Learned Special Judge] and resorting to assessment of evidence [though nothing placed on record] and giving any observation or findings shall prejudice the rights of either of the parties to the pending trial, which is

nearing conclusion. In these circumstances, the plea of the petitioner is turned down.

CONCLUSION:

19. In the instant case as discussed above, the plea of the petitioner for bail cannot sustain for the reason, that firstly there are no reasonable grounds to believe that the bail petitioner is not guilty of the offence and is not likely to commit any offence while on bail; and secondly, the material on record reveals reasonable grounds exist to believe that the bail petitioner is guilty of the offence in question; and thirdly, material on record indicates that Commercial Quantity of contraband was recovered from the bag kept in the lap by the bail petitioner [Suraj Kumar] which was opened by the petitioner Suraj Kumar in the presence of the police on said day; and fourthly, the trial is likely to conclude shortly as prosecution evidence stands closed on 23.06.2026 and the matter was thereafter listed for recording the statement of the accused under Section 313

Cr.P.C. [Section 351 of BNSS] for 17.07.2026; and fifthly, nothing cogent and convincing material has been placed on record to assert and establish, at this stage, that the bail petitioner is not guilty of the offence or that the recovery of contraband was not affected by the police from the petitioner [Suraj Kumar]; and sixthly, the claim for parity with co-accused, namely, Pawan Kumar is not tenable, in view of fact, that the role of the bail petitioner who was actively involved in possessing, transporting and carrying the alleged contraband in bag kept in his lap which was opened by him from which contraband was recovered is entirely at variance or different to the role of Pawan Kumar from whom nothing was recovered disentitles the petitioner for bail by involving parity; and seventhly, the right of speedy trial under Article 21 in NDPS has to be read harmoniously in the context of Section 37 of the NDPS Act and once the twin conditions of Section 37 of the NDPS Act are not satisfied and nothing has been placed

on record to show that the bail petitioner was not guilty of the offence, therefore, the claim for enlargement of bail, is devoid of any merit, in the peculiar facts situation and the circumstances of instant case, as discussed hereinabove.

DIRECTIONS:

20. Taking into account the entirety of the facts and the material on record and for the reasons recorded hereinabove, and in peculiar facts of the instant case, the accusation against the petitioner is prima-facie made out and the claim of the petitioner [Suraj Kumar] being devoid of any merit and ***the same is dismissed.***

21. Observations made in this judgment shall not be construed in any manner as an indictive of findings, for or against the parties herein, either for the purpose of investigation or for trial, which shall proceed in-accordance with law, irrespective of any of the observations contained hereinabove.

In aforesaid terms, the instant petition and all pending miscellaneous application(s), if any, shall accordingly, stand disposed of.

(Ranjan Sharma)
Judge

14th July, 2026
(tm)