

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

**Cr.M.P. No. 545 of 2026 in**  
**Cr.Appeal No.138 of 2025**  
**Cr.M.P. No. 1379 of 2026 in**  
**Cr.M.P. No. 99 of 2025**  
**Reserved on : 17.08.2026**  
**Date of decision: 08.09.2026**  
**Date of upload : 08.09.2026**

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**1. Cr.M.P. No. 545 of 2026 in**  
**Cr. Appeal No. 138 of 2025**

Bal Krishan

....Applicant

Versus

State of Himachal Pradesh

....Respondent

**2. Cr.M.P. No. 1379 of 2026 in**  
**Cr.Appeal No. 99 of 2025**

Shyam Singh

....Applicant

Versus

State of Himachal Pradesh

....Respondent

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*Coram*

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

***Hon'ble Mr. Justice Ranjan Sharma, Judge.***

*Whether approved for reporting? <sup>1</sup> Yes*

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<sup>1</sup> Whether the reporters of the local papers may be allowed to see the judgment?

**Cr.M.P. No. 545 of 2026 in**  
**Cr. Appeal No. 138 of 2025**

*For the Applicant.*                      *Mr. Vivek Chandel and Mr. Mukul Sood,*  
*Advocates.*

*For the Respondent:*                *Mr. Pawan Kumar Nadda, Additional*  
*Advocate General.*

**Cr.M.P. No. 1379 of 2026 in**  
**Cr. Appeal No. 99 of 2025**

*For the Applicant.*                      *Mr. Rajender Singh Thakur, Advocate.*

*For the Respondent:*                *Mr. Pawan Kumar Nadda, Additional*  
*Advocate General.*

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**Vivek Singh Thakur, Judge**

These applications have been filed on behalf of applicant-appellants in respective appeals for suspension of sentence awarded to them in sequel to their conviction vide judgment dated 27.09.2024 passed by Special Judge, Kinnaur Sessions Division at Rampur Bushahr, H.P. in CIS Registration No. 52 of 2022, titled *State of H.P. vs. Shyam Singh and Another*, in case FIR No. 65 of 2022, registered at Police Station Anni under Sections 20 and 29 of the NDPS Act.

2.                Applicants have been sentenced vide order dated 27.09.2024 to undergo rigorous imprisonment for a term of 10 years each and to pay fine of ₹1,00,000/- each for commission of offence punishable under Section 20 of NDPS Act and in default of payment of fine to

undergo simple imprisonment for a term of 1 year each. Applicants-appellants have also been sentenced to undergo rigorous imprisonment for a term of 10 years each and to pay fine of ₹1,00,000/- each for commission of offence punishable under Section 29 of NDPS Act and in default of payment of fine to undergo simple imprisonment for a term of 1 year each.

3. Learned counsel for the applicants-appellants have submitted that in view of discrepancies and contradictions as well as missing link between the case property, alleged to be recovered, with the contraband produced in the Court, there is fair chance of acquittal of the applicants-appellants, and therefore, they are entitled for suspension of sentence at this stage, because there is no possibility of final hearing of appeals in near future, as appeals pertain to the year 2025, whereas large number of appeals filed prior in time, are pending adjudication in this Court.

4. It has been submitted by learned counsel for applicants-appellants that as per prosecution story, applicants-appellants were apprehended on 17.06.2022 at 10:20 PM and NCB-I form was filled in by the Investigating Officer, HC Anupam Kumar (PW-13), and he filled columns 1 to 8 during search and seizure process and date below his signatures has been mentioned as 17.06.2022, whereas, in column No. 7,

date of dispatch by the officer to Police Station has been mentioned as 18.06.2022. It has been submitted that when columns were filled on the spot on 17.06.2022, and case property was handed over to SHO Police Station, who filled columns No. 9 to 11, there was no occasion for PW-13-HC Anupam to fill up the date of dispatch to Police Station as 18.06.2022, and it reflects that documents have been prepared by concocting a story in the Police Station itself, because a person filling the document and signing the same on 17.06.2022 could not have written the date of dispatch to the Police Station as 18.06.2022.

5. It has been further submitted that prosecution's case becomes doubtful, as in Ext. P-2/PW-7, specimen impression of seal 'SIUX6' stated to have been taken, but in this document, FIR number is blank and date has been manipulated from 16/2022 to 17/2022, but without mentioning the month of preparation of this sample seal.

6. It has been submitted by learned counsel for the applicants-appellants that everywhere, including the Judicial Magistrate, it has been stated that recovered contraband, i.e., Charas was in sticks shape and round balls. However, in photograph Ext. P-1/PW-10 to P-4/PW-10, no round ball type contraband is visible, there are only sticks. Similarly, in the photograph, alleged to have been taken before Magistrate, there are only

stick-shaped contraband in the packet, but no round-shaped or ball type Charas is visible.

7. It has also been argued by learned counsel for the applicants-appellants that during proceedings under Section 52A of NPDS Act, Judicial Magistrate First Class, Anni had certified the inventory, and after verification had re-sealed the parcel of contraband with seals of National Emblem of ₹5 coin, as evident from Ext. P-7/PW-12, whereas, when contraband was produced in the Court to confront PW-7 Roshan Lal, after declaring him hostile, the contraband in cloth parcel 'MO' was found sealed with six seals of 'SIU6', three seals impression of 'T' and 3 seals of 'SFSL'. There is no reference of seal of National Emblem on the parcel of the contraband, which clearly indicates that contraband produced in the Court is not the parcel produced before the Magistrate, whereupon he had facsimiled four seals of National Emblem of ₹5 coin.

8. PW-9 HC Girdhari Lal, PW-3 HC Anupam have admitted that sample seals Ext. P-2/PW-7 and Ext. D-1 do not bear any FIR number and no proper date has been shown thereon.

9. It has also been pointed out by learned counsel for the applicants-appellants that PW-13-HC Anupam had taken printouts of photographs with the help of computer and printer installed at Police

Station Anni. He himself was not posted at Anni, but was posted in SIU Kullu, and therefore, he was not having any control on the computer and printer of the Police Station Anni, but despite that he has issued a false Certificate under Section 65B of Indian Evidence Act with regard to control on the computer and printer, so as to prove the photographs on record by stating that he was having lawful control over the photo printer of Police Station Anni, which was in proper working order and no ending modification has been made.

10. In view of aforesaid discrepancy, the photographs placed on record cannot be taken into consideration in evidence for want of issuance of certificate under Section 65B of Indian Evidence Act by the appropriate authorized person who was having control over the computer and printer of Police Station Anni, because PW-13 HC Anupam posted in SIU Kullu, at no stretch of imagination, could have any control over the photo printer of Police Station Anni.

11. Though, it is claim of the prosecution, as deposed by all witnesses and stated in documents also, it has been mentioned that recovered contraband was in the shape of sticks and round balls, however, PW-10 LJHC Sanjay Kumar in his cross-examination has clearly admitted that contraband shown to him in the Court was in stick shape only.

12. It has been submitted that on production of parcel in the Court, absence of National Emblem seal put by the Magistrate on the parcel and admission of PW-10 (LJHC Sanjay Kumar) police official witness that contraband shown to him was in stick shape only, and further in the photographs also, if are taken into consideration, it is clearly visible that there is no round shaped Charas produced before the Magistrate, but it is only sticks of the contraband, which were produced before the Magistrate.

13. It has also been argued by learned counsel for the applicants-appellants that prosecution has produced in evidence daily diary GD entry No. 27 and GD entry No. 28, on which, date and time of recording is 18.06.2022 at 02:29:21 PM, which shows that there is manipulation, as two documents cannot be prepared and uploaded at one and the same time, which has been mentioned with accuracy of seconds, which creates doubt about the entire prosecution story and indicates that documents were prepared in one go in the Police Station, and thus, there is a fair chance of acquittal of the applicants-appellants.

14. Learned Additional Advocate General has submitted that missing of FIR number and correction in the date in Ext. P-2/PW7 is an inadvertent mistake, whereas on other documents, date and FIR number has been correctly mentioned, and therefore, blank column in Ext.

P-2/PW7 and Ext. D-1 with regard to FIR and date of taking the sample seal is inconsequential.

15. It has been further submitted by learned Additional Advocate General that in photographs, contraband as well as accused persons are clearly visible, and now, they cannot claim that they were not on the spot. It has been further submitted that Section 52A of NDPS Act was legally and rightly conducted by the prosecution and on the basis of discrepancies referred by learned counsel for the applicants-appellant, there is no chance of acquittal, hence applications deserve to be dismissed.

16. Taking into consideration rival contention of the parties, we are of the considered view that as appeals are likely to be heard after a considerable long time, a case is made out for suspension of sentence.

17. Accordingly, substantive sentence awarded to the applicant-appellants are ordered to be suspended during pendency of appeals, subject to furnishing personal bond in the sum of Rs. 2,00,000/- each with one surety each in the like amount to the satisfaction of Trial Court, with undertaking therein to appear before this Court as and when directed and in the event of dismissal of appeals, to surrender before the Court, to serve the remaining sentence.

18. During suspension of sentence, applicants-appellants shall not involve in commission of illegal and/or unlawful act, much less in commission of similar offence and such involvement shall result cancellation of suspension of sentence.

19. Bail bonds so furnished shall be transmitted by the Trial Court to the Registry of this Court for placing the same on record.

20. 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 applications.

21. 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.

Applications are allowed and disposed of in aforesaid terms.

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

**(Ranjan Sharma),  
Judge.**

**8<sup>th</sup> September, 2026**  
(Susheel)