

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P. No. 1564 of 2026 in
Cr. Appeal No. 254 of 2025
Reserved on : 30.07.2026.
Date of decision: 11.08.2026
Date of upload : 11.08.2026

Ramesh Chand and Another

...Non-applicant/Applicant

Versus

State of Himachal Pradesh

...Respondent

Coram

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

Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting? ¹

For the Applicant.

Mr. N.S. Chandel, Senior Advocate with Ms. Kanika Verma, Advocate.

For the Respondent:

Mr. Raj Negi, Deputy Advocate General.

Vivek Singh Thakur, Judge

This application has been preferred by applicant-appellant No. 2 Baldev for suspension of his sentence awarded to him, vide judgment of conviction and order of sentence dated 21.03.2025, passed by Special Judge, (Family Court), Mandi, District Mandi, H.P. in Case

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

NDPS No. 48 of 2023, titled State of H.P. vs. Ramesh Chand and Others, arising from FIR No. 16/2023, dated 13.01.2023, registered at Police Station Sadar, District Mandi, H.P., whereby he has been sentenced to undergo rigorous imprisonment for 16 years and also to pay fine of Rs. 1,40,000/- for commission of offence under Section 20 of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act) and in default of payment of fine, to further undergo simple imprisonment for six months and also to undergo rigorous imprisonment for a period of 16 years and to pay fine of Rs. 1,40,000/- for offence punishable under Section 29 of NDPS Act and in default of payment of fine to further undergo simple imprisonment for a period of six months.

2. Reply to the application has been filed, whereby suspension of sentence of applicant-appellant No. 2 Baldev has been opposed.

3. It has been argued on behalf of applicant-appellant No. 2 Baldev that alleged recovery of Charas was made from non-applicant-appellant No. 1 Ramesh Chand and as per prosecution story, it was Gokal Chand, who sold the Charas recovered from appellant No. 1 Ramesh Chand and on the basis of disclosure statement of convict Gokal Chand, Rs. 2,00,000/- were recovered from a place nearer to cremation ground, kept under the stone in a poly bag near stump of a tree, whereas

neither the alleged contraband nor any other incriminating material was recovered from applicant-appellant No. 2 Baldev.

4. It has been contended that applicant-appellant No. 2 Baldev has been arrayed as accused on the basis of disclosure statement of co-accused as well as on the basis of Call Detail Record (CDR) indicating excessive talks of applicant-appellant No. 2 Baldev with non-applicant-appellant No. 1 Ramesh Chand.

5. It has been further submitted that as per prosecution's case, Ramesh Chand, Baldev and Suresh Kumar had stayed in Tirthan Village Huts Balichowki on 12.01.2023 and they procured Charas from Gokal Chand on 13.01.2023, which was recovered from Ramesh Chand, while he was travelling in a bus, whereas there is no evidence of involvement of present applicant-appellant No. 1 Baldev in alleged procurement of contraband and/or transportation thereof.

6. It has been contended that PW-3, Lakshmi Narayan Sharma, owner of Tirathan Village Huts, deposed that he had been managing the huts with the assistance of his employee, Devender Thakur. On 12.01.2022, at about 11:45 P.M., he received a call on his mobile phone from a person requesting accommodation in his village huts for three persons with further information that they were going to Jibhi, but due to snowfall, they were not in a position to travel and requesting for

room. According to this witness, he received Rs. 1,200/- in his Google-Pay account from Suresh Kumar as well as his ID, i.e., Adhar Card indicating his name Suresh Kumar, S/O Paramdev. After receiving ID and payment, PW-3 Lakshmi Narayan Sharma asked Yog Raj (PW-4) to open the room to give it to Suresh Kumar and two other persons along with him.

7. In his cross-examination, this witness has stated that he was not personally knowing that how many persons came to the cottage on 12.01.2023 during night with explanation that he had only telephonic conversation with one person out of them. Further, that police had not obtained any certificate from him regarding correctness of contents of Adhar Card and screen shot.

8. PW-4 Yog Raj is the person, who, according to prosecution, had seen three persons staying in Tirthan Village Huts. He in his examination-in-chief has stated that he was not able to identify those persons, as it was dark and night hours. However, he has also deposed that person standing in front (Ramesh Kumar) came on next day. In cross-examination, he has stated that he was not able to tell that how many ladies and gents were they, who stayed in Tirthan Village Huts. He has stated that he had disclosed the Investigating Officer regarding the fact that Ramesh Kumar had come on the next day, but was confronted

with statement Ext. D-1/PW-4, it was not recorded so. According to him, accused Ramesh Kumar came with police on next day and at that time, PW-3 Lakshmi Narayan Sharma and Devender Thakur (PW-7) were also present there.

9. PW-7 Devender Thakur, in his examination-in-chief, has deposed that he remained associated in police investigation on 15.01.2023 and he had shown documents to the police, and Lakshmi Narayan had handed over documents, i.e., copy of Adhar Card (Ext. P-7/PW3), screen shot Gpay Rs. 1,200/- (Ext. P-8/PW-3), extract of register Tourist Tirthan Village Hut (Ext. P-9/PW3), bill (Ext. P-10/PW3), registration certificate (Ext. P11/PW3) to the police, which were taken in possession by the police vide seizure memo (Ext. P-6/PW-3).

10. Call details between appellant No. 1 Ramesh Chand and applicant-appellant No. 2 Baldev have also been placed on record as Ext. P97/PW26.

11. Learned Deputy Advocate General has submitted that huge quantity of Charas was recovered from appellant No. 1-Ramesh Chand, and that applicant-appellant No. 2, Baldev, was the main person instrumental in procuring the Charas from Gokal Chand. It has, therefore, been contended that applicant-appellant No. 2 Baldev is not entitled to suspension of sentence.

12. It has been submitted that call details indicate that on 12th and 13th January, 2023, there are about 76 unusual calls between Baldev and Ramesh Chand and also there are number of calls with co-accused Gokal Chand, and CDR is not only depicts numerous calls between accused persons, but also indicates their presence in the same area and, thus, it is apparent that recovered Charas was procured by all accused persons after hatching conspiracy and, thus, applicant-appellant No. 2 Baldev is also like other co-accused and is not entitled for suspension of sentence.

13. Learned counsel for the applicant-appellant by referring statements of PW-3 Lakshmi Narayan Sharma, PW-4 Yog Raj, PW-7 Devender Thakur has submitted that it has not been proved on record that applicant-appellant No. 2 Baldev was present in Tirthan Village Huts when Suresh Kumar had hired the room and according to him, Suresh Kumar had visited the same place with his family.

14. It has been submitted that according to PW-3-Lakshmi Narayan Sharma, Ramesh Kumar had come in Tirthan Village Huts on next day and PW-4 Yog Raj was not in a position to identify the persons who stayed in Tirthan Village Huts, rather he was also not clear that how many ladies were accompanying Suresh Kumar. Name of Baldev has not

been disclosed by caretaker of Tirthan Village Huts, nor his signatures are there on the register.

15. It has been further submitted that applicant-appellant No. 2 Baldev and Ramesh Kumar are Mama-Bhanja (uncle-nephew) and frequent talks between them are nothing but natural, as from the call detail record placed on record, it is apparent that not only on 12th and 13th January, 2023, but also from the first day of January, they had talked with each other and on 2nd and 3rd January also, large number of calls were there between Baldev and main accused Ramesh Chand. It has been submitted that being residents of same area of different villages, their location is bound to be reflected in the same area, being connected with the tower of the same area for their nearby residences in the same vicinity. Therefore, it has been contended that there is nothing unusual between Mama-Bhanja to make calls with each other. These calls are for very short intervals, which indicates that on that day, there may be network problem, so repeated calls were made to complete the talks, which were only family talks. It has been submitted that call details of other time period have not been placed on record, which would have indicated that not only in month of January, but during other time period also, Ramesh and Baldev used to talk each other in the same fashion.

Therefore, evidence of call details cannot be used to allege that Baldev was involved in commission of offence along with other co-accused.

16. It has been further submitted that in view of pronouncement of Apex Court in ***Tofan Singh v. State of Tamil Nadu***, reported ***in (2021) 4 SCC 1***, co-accused cannot be convicted/detained only on the basis of call detail record and disclosure statement of co-accused, particularly when nothing has been recovered, on the basis of which, applicant-appellant No. 2 Baldev can be roped in commission of offence particularly when it is apparent from call detail records that applicant-appellant No. 2 Baldev and Ramesh Chand were in different area at different times and they are close relatives with each other and call detail records of previous dates like 1st and 2nd January, 2023 also indicate that both of them had numerous calls with each other on other days also. Therefore, it has been contended that it is a case of no evidence against applicant-appellant No. 2 Baldev and, therefore, he is entitled, at least, for suspension of sentence at this stage.

17. Considering the aforesaid submissions, material available before us and rival contentions of learned counsel for the applicant-appellant and learned Deputy Advocate General, we are of the considered opinion that applicant-appellant No. 2 Baldev can be treated differently than the other co-accused, particularly Ramesh Chand from

whom Charas was recovered and Gokal Chand, who allegedly sold Charas to Ramesh Chand.

18. Therefore, substantive sentence awarded to the applicant-appellant No. 2 Baldev is ordered to be suspended during pendency of the appeal, subject to furnishing personal bond in the sum of Rs. 1,00,000/- with one surety 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 the dismissal of the appeal, to surrender before the Court, to serve the remaining sentence.

19. During suspension of sentence, applicant-appellant No. 2 Baldev shall not involve in commission of illegal and/or unlawful act, much less in commission of similar offence and such involvement shall result suspension of sentence.

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

21. 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.

22. 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.

Application is allowed and disposed of in aforesaid terms.

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

**(Ranjan Sharma),
Judge.**

11th August, 2026
(Susheel)