

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**Cr.WP No. 31 of 2026****Date of decision: 30.07.2026**

Mukesh Kumar	Versus	...Petitioner
State of H. P. & Ors.		...Respondents

*Coram****The Hon'ble Mr. Justice G. S. Sandhawalia, Chief Justice.******The Hon'ble Mr. Justice Bipin C. Negi, Judge.****Whether approved for reporting?*

For the Petitioner: Mr. Pranshul Sharma and Mr. Yuyutsu Singh Thakur, Advocates.

For the Respondents: Mr. Arsh Rattan, Additional Advocate General.

G. S. Sandhawalia, Chief Justice (Oral)

Challenge in the present petition is to the detention order dated 08.05.2026 (Annexure P-1), whereby the petitioner was detained for a period of three months under Section 3(1) read with Section 5 of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (for short 'the **PIT NDPS Act**').

2. The reason as such for the detention was that the petitioner was arrested twice in two cases, whereby 225 grams of opium and 09.09 grams of heroin/chitta were recovered from him and trial is going on. The detail of the FIRs reads as under:-

i. In First Information Report No. 86/2020 dated 01.09.2020 at Police Station Banjar (Seraj), District Kullu, H.P., under Sections 18, 25 of the Narcotic Drugs and Psychotropic

Substances Act, 1985, approximately 225 grams of opium was recovered from him.

ii. In First Information Report No. 36/2025, dated 03.04.2025 at Police Station Darlaghat, District Solan, H.P. under Sections 21, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, approximately 09.09 grams of Heroin/Chitta was recovered from him.

3. On the basis of the recommendations dated 20.04.2026, the detention order has been passed keeping in view the source reports from the State CID, Himachal Pradesh and Station House Officer, Police Station, Darlaghat, wherein the second FIR as such had been registered. It has taken into account the involvement of the petitioner in drugs trafficking and come to the conclusion that he has a well established link with drug traffickers and his conduct demonstrates a lack of reform. After his release in the first FIR, he was again involved in the drug trafficking and the second FIR No. 36/2025 was registered.

4. Learned counsel for the petitioner, while placing on record the bail order passed in the second FIR No. 36/2025, on 11.08.2025, submits that the live link as such is missing, inasmuch as having been released on bail on 11.08.2025, has not been noticed by the State while passing the order of detention and that no efforts were made as such to get the bail cancelled, the passing of the detention order would frustrate the whole purpose of bail as it was preventive in nature and there was lack of involvement in any similar case during the intervening period of eight (8) months.

5. Reliance has been placed upon the settled principles that live link aspect is missing and the order curtailing the personal liberty is liable to be quashed.

6. Keeping in view the fact that the detention order as such takes away the personal liberty and is in violation of Article 21 of the Constitution of India, the Apex Court has time and again held that strict adherence as such and also the purpose of detention would be frustrated, if the proximate and live link aspect is violated.

7. Reliance as such can accordingly be placed upon the judgment in ***Sushanta Kumar Banik vs. State of Tripura and others, 2022 SCC Online SC 1333***, wherein there was five months delay in passing the detention order and the same was quashed.

8. Similar view was taken by us in ***Cr.WP No. 11 of 2025***, titled as ***Nawang Sonam vs. State of H.P.***, decided on 04.06.2025 and in ***Cr.WP No. 28 of 2025***, titled as ***Sunil Rana @ Sunny vs. State of H.P. & Ors.***, decided on 07.01.2026.

9. In ***Cr.WP No. 31 of 2025***, titled as ***Ankush Thakur vs. State of H.P. & Ors.***, decided on 26.02.2026, the last FIR was lodged in March, 2024 and the order of detention was passed on 06.12.2025 and resultantly we had placed reliance upon the judgment passed in ***Mortuza Hussain vs. State of Nagaland and Ors., 2025 SCC Online SC 502***, that satisfaction of the detaining authority has to be spelt out after the application of mind and on examination of the proposal and

supporting documents that the detention of the individual concerned is necessary. The intervening period as such would be sufficient to hold that the said exercise is not carried out.

10. Similarly in ***Mallada K. Sri Ram vs. State of Telangana and Ors., (2023) 13 SCC 537***, the detention order was quashed, which was passed after five (5) months on the registration of the second FIR and it was held that it amounted to the non-application of mind on the part of the detaining authority.

11. In ***Ameena Begum vs. The State of Telangana (2023) 9 SCC 587***, it has been held that the safeguards enshrined in Articles, 14, 19 and 21 of the Constitution are to be diligently enforced by the High Courts as the said safeguards form the “*golden triangle*”.

12. In such circumstances, keeping in view the above, we are of the considered opinion that the order of detention after a period of eight (8) months cannot stand judicial scrutiny. Accordingly, the petition is allowed and the impugned detention order (Annexure P-1) is quashed and set aside.

Pending applications, if any, also stand disposed of.

(G. S. Sandhawalia)
Chief Justice

(Bipin C. Negi)
Judge

30th July, 2026
(sanjeev)