

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr.MP(M) No. : 1006 of 2026****Reserved on : 23rd July, 2024****Decided on : 24th July, 2026****Uploaded on : 24th July, 2026**

Abdul Basit

...Applicant

Versus

State of Himachal Pradesh

...Respondent

*Coram***The Hon'ble Mr. Justice Virender Singh, Judge.***Whether approved for reporting?¹*

For the applicant : Mr. Rakesh Chaudhary, Advocate.

For the respondent : Mr. Tejasvi Sharma, Additional Advocates General with Ms. Ranjna Patial and Mr. Rohit Sharma, Deputy Advocates General, assisted by HC Sandeep Singh No.512, Police Station Paonta Sahib.

Virender Singh, Judge

Applicant-Abdul Basit, has filed the present application, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (hereinafter referred to as the 'BNSS'), seeking the relief of bail, during the pendency of the trial, arising out of **FIR No.108/2025, dated 11th May, 2025**, registered with **Police Station, Paonta Sahib, District Sirmaur, H.P., under Sections 21, 22 and 29 of the**

¹ *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

Narcotic Drugs and Psychotropic Substances Act

(hereinafter referred to as the 'NDPS Act').

2. According to the applicant, he is innocent person and has falsely been implicated, in this case, by the police.

3. As per the applicant, he is young man of 21 years and keeping in view the future career aspects and academic session of the applicant, he is entitled to the relief, as claimed in the application.

4. It is the further case of the applicant that no recovery has been effected from him. The possession of the alleged contraband, according to the applicant, was not with the applicant, as the shop is owned by co-accused Faizan. No money trail is stated to be there between the applicant and his co-accused.

5. All these facts have been pleaded to demonstrate that he was having no dominion and ownership over the said shop.

6. According to the applicant, there is no link evidence worth credence on record to show implication of

applicant, in the present case, nor, there is any call record between him and his co-accused.

7. The applicant, has earlier tried his luck, by moving similar application, before the learned Special Judge-II, Nahan, which was dismissed as withdrawn on 26.08.2025. Thereafter, the applicant has moved Cr.MP(M) No.2255 of 2025, before this Court, which was dismissed as withdrawn on 11.09.2025. Subsequently, the applicant has filed application before the Court of learned Special Judge-II, Nahan, however, the said application was dismissed on 16.10.2025. The applicant has thereafter filed Cr.MP(M) No.2574 of 2025, before this Court, which was dismissed vide order dated 20.11.2025. Similar bail application was again filed before this Court, being Cr.MP(M) No. 284 of 2026, which was also dismissed as withdrawn, on 20.03.2026.

8. As per the applicant, investigation, in the present case, is complete and no useful purpose would be served by keeping him, in the judicial custody.

9. According to the applicant, he is having very good antecedents and he belongs to a respectable family.

As per the applicant, there is no criminal case pending against him.

10. Apart from this, the learned counsel appearing for the applicant, has given certain undertakings, on behalf of the applicant, for which, the applicant is ready to abide by, in case, ordered to be released, on bail, during the pendency of the trial.

11. On the basis of the above facts, a prayer has been made to allow the application.

12. When put to notice, police has filed the status report, disclosing therein, that on 11.05.2025, HC Anil Kumar, No.645, along with other police official, was on patrolling duty to detect the crime relating to excise, narcotics and gambling Act, in the area of Sub-Division Paonta Sahib.

12.1. At about 01.15 p.m., when, the police party was present at Batamandi, then, the I.O., received a secret information that one Bilal Khan son of Yakub Ali, along with a boy, namely ABC, is coming on his motorcycle bearing Registration No.HP17F-0877, with drugs and smack with them from Uttar Pradesh to Paonta Sahib. As

per the information, in case, he is nabbed, large quantity of contraband could be recovered.

12.2. According to the I.O., in case, he obtains the search warrants and authorization letter, delay could be caused and contraband could be removed from there.

12.3. The information was found to be authentic and reliable, as such, the I.O. has complied with the provisions of Section 42(2) of the NDPS Act and submitted the same to his superior officer.

12.4. Thereafter, the I.O., along with other police officials, proceeded towards the check post to put picketing, at about 2.10 p.m., where the police party was present at a distance of 200 metres, towards Haryana boundry from Beharal Check post, for picketing, then he stopped 4-5 vehicles and requested the persons to be the independent witnesses, but no one was ready to be the independent witness.

12.5. At about 3.10 p.m., the I.O., noticed, two persons coming on foot, towards Beharal check post and he stopped them and inquired about their names. On inquiry, they disclosed their names as Pradeep Kumar and

Ashish Sharma. The I.O., apprised them about the secret information and they were associated as independent witnesses. Thereafter, picketing was done.

12.6. At about 4.20 p.m., a motorcycle Bullet No.HP17F-0877, as per the secret information, came there from Haryana side. Two persons were found on the said motorcycle. Before reaching the point, where picketing had been done, the person, who was pillion rider, was made to alighten down, along with bag and he turned his motorcycle towards Haryana and fled away from there.

12.7. With the help of the police officials, the pillion rider, who was made to alighten down from the motorcycle, along with bag, was nabbed. Thereafter, the I.O., has shown his identity card to him and inquired from him about the name and address. The said person disclosed his name as ABC. The name of other person, who fled away, along with motorcycle, was ascertained. His name was found to be Bilal Khan, as per the person/CCL, who was nabbed.

12.8. Thereafter, rucksack, which, ABC was having, was checked. On opening, it was found containing black

coloured polythene envelope, which was further found to be containing 20 strips of capsules marka PROXIOHM-SPAS. Each strip was found containing 24 capsules, upon which, the prohibited salt Tramadol, was printed. Total 480 capsules were found. Out of total 20 strips, 5 strips were of the Batch No.RHC460/24 and 15 strips were of Batch No.RHC461/24, manufacturing date of which was found -2/2025 and expiry date 01/2027.

12.9. All the 480 capsules were found to be manufactured by Reswin Health Care, Plot No.41 Gabriel Road Sector-2, Parwanoo, H.P. thereafter, the I.O. demanded the license/prescription slips from the CCL, which he could not produced, upon which, all the 20 strips were again put in the black coloured envelope and the same was put in the same rucksack. The rucksack was sealed with seal having impression 'D'.

12.10. Thereafter, the small transparent polythene bag was checked, which was found containing pink coloured substance, which, on the basis of experience, was found to be smack/heroin and weight of the same was found to be

08 grams. The said contraband was also taken into possession.

12.11. Other codal formalities were completed. Thereafter, the CCL was inquired, who has disclosed that Bilal Khan had gone with him to Mirzapur Behat to procure these capsules and smack. He has paid 50% amount for purchasing the same.

13. On the basis of the above facts, the police has registered the FIR, in question and the criminal machinery swung into motion.

14. Subsequently, the statement of witnesses were recorded, under Section 180 of BNSS. The CCL has disclosed his age as 21 years, as such, he was arrested on 11.05.2025, at 10.05 p.m. He was medico-legally examined at Civil Hospital, Paonta Sahib. Thereafter, on 12.05.2025, the CCL was produced before the Court, from where, he was remanded to police custody till 15.05.2025.

15. During investigation, on 14.05.2025, the age of the CCL was to be found less than 18 years, as such, he was produced before the Principal Magistrate, Juvenile

Justice Board, Nahan, from where, he was sent to correctional home.

16. The positive result has been received from SFSL, Junga, where the contraband has been sent for analysis.

17. On 07.08.2025, accused Bilal Khan was arrested at 5.20 p.m. The motorcycle used by him, in the crime, in question, bearing registration No.HP17F-0877, was also taken into possession. He was medico-legally examined. He was produced before the learned Judicial Magistrate First Class, Court No.2, Paonta Sahib, from where, he was remanded to Police custody.

18. During investigation, Bilal Khan, disclosed that he has purchased the prohibited capsules, for a sum of Rs.4500/-, from the shop of a chemist at Mirzapur Uttar Pradesh and he could identify the same, upon which, on 09.08.2025, accused Bilal Khan had identified the medical shop in village Jattowala. The I.O., in the presence of C. Manoj Kumar No.2287, Police Station Mirzapur, U.P and Pradhan Gram Panchayat, Satish Kumar of village Jattowala, inquired about the name of the person present

there. The person present there has disclosed his name as Abdul Basit (applicant).

19. Thereafter, the I.O., after completing other codal formalities, searched the shop. During search of the shop, below the counter, a box, on which PROXIOHM- SPAS, has been printed, was found. A strip was also found, upon which PROXIOHM- SPAS was found printed, out of which two capsules have been taken away. Behind the chair, in the rack, a box was found, upon which PROXIOHM- SPAS was found printed. Each box was found containing 10 strips and each strip was found containing 24 capsules. Out of one strip, two capsules were taken out. Total 21 strips, containing 502 capsules, were recovered, which were found containing prohibited salt Tramadol. Out of total 21 strips, 11 strips (including 1 strip, out of which two capsules were taken out), were found to be of Batch No.MC-784 and 10 strips of Batch No.RHC-030/25.

20. Out of total 502 capsules, one box containing 240 capsules, and one strip, containing 22 capsules, out of which, two capsules have been taken out, was found to be manufactured by Maxilla Medisciences Private Limited,

Plot No.14, 15, 16 Express Industrial Park Gomed Near Pirana Gate Circle S.P. Ring Road Pirana Ahmadabad Gujrat and other box containing 240 capsules of prohibited drugs were found to be manufactured by Reswin Health Care Plot No.41, Sector-2, Parwanoo.

21. Accused Abdul Basit (applicant), could not produce any record qua those prohibited capsules. Consequently, the contraband was taken into possession. After complying with all the codal formalities, accused Abdul Basit (applicant), was arrested on 09.08.2025, at 4.40 p.m.. On 10.08.2025, he was produced before the Court of learned Judicial Magistrate First Class, Court No.2, Paonta Sahib, from where, he was remanded to police custody till 12.08.2025.

22. During investigation, accused Abdul Basit (applicant), disclosed that he is working as assistant in the shop owned by Dr./Chemist Mohd. Faizan, for the last 2-3 months. On 11.05.2025, he was present at Riza Medical Store, as, accused Bilal Khan has disclosed that at the direction of doctor, Abdul Vasit has handed over envelope containing the capsules' box to doctor. Thereafter, the

owner/doctor has handed over the above envelope to Bilal Khan and the CCL, for a sum of Rs.4500/-. Abdul Basit (applicant), also disclosed that they also sold the capsules in their shop and the doctor used to sell the same at the rate of Rs.10/- per capsules. Doctor used to pay him Rs.150/- -Rs.200/- daily.

23. The contraband, so recovered, was taken into possession and was sent to SFSL Junga, from where, positive report has been received.

24. On 05.10.2025, on the basis of secret information Mohd. Faizan, was also arrested. During investigation, the elder brother of Mohd. Faizan, produced the original affidavit qua rent deed and photocopy of license issued in favour of Mohd. Faizan, which were taken into possession. However, no bill/record qua purchase of recovered prohibited capsules was produced.

25. Lastly, it has been pleaded that the investigation, in the present case is complete and the charge sheet has been filed. The case is now listed for report on 23.07.2026.

26. On the basis of the above facts, a prayer has been made to dismiss the application.

27. Admittedly, the contraband, allegedly recovered, in this case, falls within the definition of 'commercial quantity. In view of the law laid down by Hon'ble Supreme Court in ***Criminal Appeal No.5544 of 2024***, titled as '***Narcotics Control Bureau versus Kashif***', ***Citation No.2024 INSC 1045***, before releasing the person, involved in the crime, it is obligatory upon the Court to record the findings, which should be more than *prima-facie* findings, regarding existence of the twin conditions, as enumerated under Section 37(1)(b)(ii) of the NDPS Act. In other words, it can be said that before releasing the person, involved in the crime in issue, findings have to be recorded by the Court, about the fact that accused is not guilty of such offence, and while on bail, he is not likely to commit any offence.

28. The applicant was simply a person, who was allegedly present, on the shop, at the time of alleged raid by the police. The said shop has been taken, on rent, by Mohammad Faizan, from Omi wife of Suresh w.e.f.

01.07.2024 to 30.06.2030, on the monthly rent of Rs.3,000/-.

29. It is also the case of the police that as per the record, Mohammad Faizan was found to be real owner of Riza Medical Store. On account of presence of the applicant, on the shop, at the time of alleged raid, without any other evidence, qua his employment on that shop, as salesman or in the absence of any other evidence to prove that he was anyway connected with the affairs of the said shop, this Court has no hesitation to hold that the twin conditions, as enumerated, under Section 37(1)(b)(ii) of the NDPS Act, are existing in favour of the applicant, at this stage.

30. During investigation, the police could not collect any document demonstrating that the applicant was employed by Mohd. Faizan on the shop in question and as per the status report, the said shop was stated to be of Abdul Basit (applicant), which, later on, was found to be of Mohd. Faizan. Moreover, the police allegedly raided the shop, on the basis of the alleged disclosure, made by

accused Bilal Khan, who could not even mention the shop, but, simply stated that he could identify the said shop.

31. It is not the case of the police that when, the raid was conducted at the instance of accused Bilal Khan, applicant Abdul Basit, who was allegedly present there, has claimed himself to be the owner and employee of the shop.

32. The cumulative effect of the above discussion is that on the basis of the stand, so taken by the Police, in this case, it can be said that the applicant is not guilty of such offence and keeping in view his age, it can be said, at this stage, that in case, he is ordered to be released on bail, he is not likely to commit any offence.

33. Even otherwise, for the condition, as enumerated under the provisions of Section 37(1)(b)(ii) of the NDPS Act that the applicant is not likely to commit any offence, while on bail, reasonable conditions, can be imposed upon him. Consequently, the twin conditions, are found to be existing in favour of the applicant.

34. Moreover, the applicant was working, as a servant, in the shop and since, there is no vicarious

liability, in criminal law, as such, he cannot be connected with the contraband, so recovered, in the present case.

35. Considering all these facts, this Court is of the view that the bail application is liable to be allowed and is accordingly allowed. Consequently, the applicant is ordered to be released on bail, during the pendency of the trial, arising out of **FIR No.108/2025, dated 11th May, 2025**, registered with **Police Station, Paonta Sahib, District Sirmaur, H.P., under Sections 21, 22 and 29 of the NDPS Act**, on his furnishing personal bond, in the sum of Rs.50,000/-, with one surety, in the like amount, to the satisfaction of learned trial Court.

36. This order of release, however, shall be subject to the following conditions :-

- “a) Applicant shall regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;*
- b) Applicant shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;*
- c) Applicant shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or the Police Officer; and*

- d) *Applicant shall not leave the territory of India without the prior permission of the Court."*
- e) *The applicant shall furnish affidavit, in the first week of every month, before the learned trial Court, disclosing therein that he has not been named, as accused, in any crime, during that period.*

37. Any of the observations made herein above shall not be taken as an expression of opinion on the merits of the case as these observations are confined only to the disposal of the present bail application.

38. It is made clear that the respondent-State is at liberty to move an appropriate application, in case, any of the bail conditions is found to be violated by the applicant.

39. The Registry is directed to forward a soft copy of the bail order to the Superintendent of Jail, Model Central Jail, Nahan, through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

40. In case, the applicant is not released within a period of seven days from the date of grant of bail, the Superintendent of Jail, Model Central Jail, Nahan, is directed to inform this fact to the Secretary, DLSA, Sirmaur District at Nahan. The Superintendent of Jail, Model Central Jail, Nahan, is further directed that if the applicant fails to furnish the bail bonds, as per the order passed by

this Court, within a period of one month from today, then,
the said fact be submitted to this Court.

July 24, 2026 (*ps*)

(Virender Singh)
Judge

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