

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Cr.MP(M) No.1193 of 2026

Decided on: 28th September, 2026

Deepak

....Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

Whether approved for reporting?¹

For the petitioner: Mr. Rakesh Kumar Chaudhary and
Mr.Panku Chaudhary, Advocates.

For the respondent: Mr. R.P. Singh, Deputy Advocate
General.

Jiya Lal Bhardwaj, Judge *(Oral)*

The petitioner by way of present petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS, 2023") is seeking regular bail in case FIR No. 98 of 2025 dated 13.05.2025 under Sections 20, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act (in short "NDPS"), 1985, registered with Police Station Sunder Nagar, District Mandi, H.P.

2. As per the prosecution story, on 13.05.2025, a police team headed by HC Dina Nath had laid a Naka at Pung

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

four-lane for checking of the vehicles, where at about 01:45 pm, the petitioner came in a car bearing registration No.HR 26 BD 9980 from the side of Sunder Nagar. On suspicion, the car of the petitioner was checked by associating independent witnesses. On checking, 1.146 Kgs. charas/cannabis was recovered from a backpack (pithu bag) lying in the dicky of the car. The car at the relevant time was being driven by co-accused Manoj Kumar, while the petitioner was sitting in the said car on conductor side seat. The investigation qua seizure of the contraband was carried out on the spot as per the provisions of the NDPS Act and on the basis of rukka sent from the spot, an FIR came to be registered against the petitioner and another accused. After completion of the investigation, a chargesheet has been prepared and filed against the petitioner and other co-accused in the Court of learned Special Judge-II, Mandi, District Mandi, H.P., and the case is now pending adjudication before the said Court.

3. The petitioner has averred in the petition that he is an innocent person and has not committed any offence and

has falsely been roped in the case. He further submitted that he has no previous criminal history and is ready to abide by all conditions imposed upon him while enlarging on bail.

4. The respondents filed status report and has opposed the petition for bail. It has come in the status report that the petitioner is not involved in the commission of any other offence.

5. I have heard the learned counsel for the parties and also perused the records carefully.

6. So far as the contraband, which has been recovered from the vehicle, is no doubt of commercial quantity and this Court has to consider the import of the provisions of Section 37 of the NDPS Act.

7. As per the provisions of Section 37 of the NDPS Act, the Court while considering the application for release of the accused in a case where the quantify of the recovered contraband is a commercial quantity has to return the findings and satisfy that there are reasonable grounds for believing that the petitioner is not guilty of such offence and

that he is not likely to commit any offence, while on bail.

8. Admittedly, in the present case, the petitioner was sitting in the car from which a commercial quantity of contraband was recovered. However, since the contraband was recovered from a backpack (pithu bag) lying in the dicky of the car, and the petitioner was merely traveling in the vehicle, which was driven by another accused and not owned by the petitioner, this Court is *prima facie* of the opinion that the petitioner cannot be kept behind bars for an indefinite period at this stage, especially when, till date, no prosecution witness has been examined to bring home the guilt against the petitioner.

9. Learned counsel representing the parties have submitted that the matter is now listed for recording the evidence of the prosecution witnesses on 01.10.2026 and the petitioner is in custody since 13.05.2025.

10. The Hon'ble Supreme Court, in recent judgments involving the recovery of commercial quantities of contraband from a vehicle, has enlarged the accused on bail without expressing any opinion on the merits of the

prosecution's case. In the present case, the petitioner has been behind bars since 13th May 2025. As the trial is likely to take some time, the petitioner deserves to be enlarged on bail.

11. The Hon'ble Supreme Court in Criminal Appeal No.227/2018, ***Dataram Singh v. State of Uttar Pradesh and another***, decided on 06.02.2018, has held that freedom of an individual cannot be curtailed for indefinite period, especially when his/her guilt is yet to be proved. It has also been held that a person is believed to be innocent until found guilty.

12. A similar view has also been taken by the Hon'ble Supreme Court in ***Manoranjana Singh alias Gupta Vs. CBI***, (2017) 5 SCC 218, wherein it has been held that the object of bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise also, normal rule is of bail and not jail.

13. Keeping in view the above pronouncements of the

Hon'ble Supreme Court, coupled with the fact that the petitioner is behind bars since 13.05.2025, he has carved out a case for grant of regular bail. In case, the petitioner is convicted, he has to undergo the sentence to be imposed by the learned Special Judge, however, till the time the petitioner is convicted, he cannot be said to be guilty for the commission of an offence.

14. Consequently, the present petition is allowed and the petitioner is ordered to be enlarged on bail in the aforesaid FIR, subject to his furnishing personal bond in the sum of Rs.1,00,000/- with two local sureties in the like amount to the satisfaction of learned trial Court. The petitioner, while on bail, will abide by the following conditions:

“(i) He shall make himself available for the purpose of interrogation, if so required and regularly attend the trial Court on each and every date of hearing and if prevented by any reason to appear shall seek exemption from appearance by filing appropriate application;

(ii) He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;

- (iii) He shall not make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or the Police Officer; and
- (iv) He shall not leave the territory of India without the prior permission of the Court.”

15. It is expressly made clear that in case of violation of any of conditions, the prosecution will have the right to file a petition for cancellation of the bail.

16. The petition stands accordingly disposed of. A copy of this order be sent to the Jail Superintendent, Model Central Jail Kanda, District Shimla, H.P. and the learned trial Court by *FASTER*.

17. The observations made hereinabove shall remain confined to the disposal of the present petition and will have no bearing whatsoever on the merits of the case.

28th September, 2026
(ankit)

(Jiya Lal Bhardwaj)
Judge

**ANKIT
BHATT**

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