

Mohan Lal vs. State of Himachal Pradesh

Cr.A.(C-DB) No.103 of 2026

24.09.2026 Present : Mr. Kulwant Singh Gill, Advocate, for the appellant-applicant.

Ms. Sharmila Patial, Additional Advocate General, for the respondent-State.

CRMP No.3288 of 2026

This application has been filed on the ground that there is a fair chance of acquittal of the accused, and therefore, he is entitled for suspension of sentence.

The grounds stated are that the house wherefrom contraband was recovered was a joint property, as also has been admitted by official witness PW-21 Anil Kumar in his cross-examination, and further that the complete house was not searched, and with regard to the room wherefrom contraband has been alleged to be recovered, there is no proper identification or map on record, and further that at the time of alleged recovery, other family members were also present in the house. Learned counsel for the applicant, after stating the aforesaid grounds, has prayed for adjournment to cite case law to substantiate the plea of fair chance of acquittal for suspension of sentence.

From the tone, tenor and trend of the cross-examination, it is apparent that search of the house wherefrom contraband was recovered is an admitted fact, and a positive suggestion has been given to the Investigating Officer, PW-22 ASI Narinder, which has been answered in the affirmative by the Investigating Officer, the same is that *'it is correct that the alleged contraband was in round and stick shape'*. From the recovery and seizure memo, rukka, and statements of the witnesses, it has come on record that the contraband recovered from

the house of the applicant-appellant was in round and stick shape. Once there is admission of recovery of contraband from the house, no other further evidence is required to be proved regarding the recovery of contraband from the house of the applicant-appellant. Therefore, plea of learned counsel for the applicant that there are judgments to substantiate the plea of fair chance of acquittal of the accused on the ground of absence of recovery of contraband from conscious possession of the applicant, is of no help to the applicant-appellant, for admission of recovery of contraband in cross-examination to the Investigating Officer PW-22 ASI Narinder.

Further, the plea that the house is joint, does not absolve the applicant-appellant from the responsibility for recovery of contraband from the house. Failure or mistake of the investigating agency to implicate all the family members or all the owners of the house, including Netar Singh, brother of the applicant, is also of no help to the applicant-appellant at this stage, because it is not the case of the applicant-appellant that the house does not belong to the applicant-appellant. He is one of the co-owners, and for admitted recovery of contraband, he is answerable to the recovery of the contraband from the house jointly owned and possessed by him. Once recovery of contraband has been admitted, and ownership, though joint, has been admitted, *prima facie* the State has discharged its onus with regard to recovery of contraband from the conscious possession of the owner of the house, and the applicant is one of them. Therefore, presumption under Sections 35 and 54 of the NDPS Act with regard to reverse onus on the person from whose possession contraband has been recovered, comes into play, and

the applicant-appellant has failed to rebut this presumption referred *supra*.

Plea of learned counsel for the applicant-appellant with respect to discrepancies or contradictions in the statements of the prosecution witnesses also has lost its relevancy for the admission of recovery of 7.687 kg Charas/contraband from the house.

In the aforesaid facts, we are of the considered opinion that on the points raised by the applicant-appellant at this stage, it cannot be construed that there is a fair chance of acquittal of the applicant-appellant.

Accordingly, the application is dismissed.

(Vivek Singh Thakur)
Judge

(Bhupesh Sharma)
Judge

24th September, 2026
(Pardeep)