

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr.MP(M) No. : 1573 of 2026****Reserved on : 11.09.2026****Decided on : 14.09.2026****Uploaded on : 14.09.2026**

Rahul

...Applicant

Versus

State of Himachal Pradesh

...Respondent

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

For the applicant : Ms. Kanta Thakur, Advocate.For the respondent : Mr. Mohinder Zharaick & Mr. H.S.
Rawat, Additional Advocates
General.

Virender Singh, Judge

Applicant-Rahul, 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.78 of 2025, dated 21.07.2025**, registered with **Police Station, Theog, District Shimla**,

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

H.P., under Sections 21 and 29 of the 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 has nothing to do with the crime in question, for which, he has been arrested by the police.

4. Investigation, in the present case, is stated to be complete and according to the applicant, his custodial interrogation is no longer required by the police. As such, no useful purpose would be served by keeping the applicant in the judicial custody.

5. The applicant has further pleaded that except the present case, no other case has been registered against him.

6. The applicant has tried his luck by moving similar application before the Court of learned Special Judge-II, Shimla, which was dismissed on 20.05.2026.

7. Apart from this, the learned counsel appearing on behalf of 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.

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

9. When put to notice, the police has filed the status report, disclosing therein, that on 21.07.2025, HC Manoj Kumar No.195, I.O. Special Cell, Shimla, submitted a rukka to Police Station Theog, for registration of FIR, mentioning therein, that on 21.07.2025, he, along with other police official, was on patrolling duty, in private vehicles No.HP52C-6525 and HP52C-5517, to detect the crime relating to narcotics, towards Dhalli, Kufri Theog Matyana and Narkanda etc.

9.1. At about 6.50 p.m., when, the police party reached at Matyana market, then, the I.O., received a secret information that on the road leading to Baragaon side, a vehicle bearing registration No.HP09C-5119 has

been parked, in which, 2-3 persons are there and selling charas.

9.2. As per the information, in case, the said vehicle is searched, large quantity of Charas can be recovered and in case of delay, the possibility of removal of the said vehicle, as well as, the contraband is also there.

9.3. 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.

9.4. Thereafter, the I.O., along with other police officials, proceeded towards the spot at Matiana Baragaon road and from Matiana, at about 300-400 meters ahead, when, they reached near Roni village, then, on the left side of the road, one vehicle bearing registration No.HP09-5119 was found parked.

9.5. As soon as, the I.O., and the police officials reached near the said car, two persons alighted down from the car and fled away, whereas, the person, who was on the wheel was nabbed by the Police. Meanwhile, from Matiana side, two persons were found coming, who were

apprised about the factual position and were requested to be the witnesses. On inquiry, they disclosed their names as Nishant and Sewak Ram.

9.6. In the presence of those witnesses, name and address of the person has been inquired, who has disclosed his name as Rahul Verma son of Shri Sunder Singh (hereinafter referred to as 'A-1'). When the I.O, inquired from him about the persons, who fled away from the car, he disclosed the name of one person as Akshay Kewala (hereinafter referred to as 'A-2'), however, according to him, he does not know the name of other person, who had fled away from the spot.

9.7. In the presence of the witnesses, the vehicle was searched, and on searching, an electronic weighing machine, as well as, contraband weighing, 2.290 kgs, was found.

9.8. After completing other codal formalities, the FIR in question, was registered and the contraband, so recovered, was taken into possession. The accused was arrested.

9.9. Thereafter, the I.O. prepared the spot map and recorded the statements of the witnesses. A-1 was medico-legally examined and the contraband was, thereafter, handed over to MHC Police Station, Theog. Thereafter, A-1 was produced before the Court, from where, he was remanded to police custody till 24.07.2025.

9.10. As per the status report, on 24.07.2025, A-2, as well as, applicant, voluntarily appeared before the police. They were associated in the investigation. During investigation, both A-2 and applicant, disclosed that on 21.07.2025, both of them were in the vehicle of A-1 and were on the way to Matiana, along with Charas. When, they were at Roni curve, then, they saw a vehicle, from which, some persons alighted down, and apprehending the said persons, as Police personnel, A-2 and the applicant fled away from the spot, towards the nearby orchard. On finding the involvement of A-2 and the applicant, both were arrested and Section 29 of NDPS Act was added.

9.11. After completion of the investigation, police filed the charge sheet, which is pending in the trial Court and

the prosecution has examined, as many as, 6 witnesses till date.

9.12. As per the status report, no other case has been found to be registered against the applicant.

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

11. 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 ***Narcotics Control Bureau versus Kashif, (2024) 11 SCC 372***, 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 there are reasonable grounds for believing that the accused is not guilty of such offence, and while on bail, he is not likely to commit any offence.

12. Provisions of Section 37 (1)(b)(ii) of the NDPS Act, are reproduced, as under:-

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

13. In this case, admittedly, the applicant was not arrested on the spot. Interestingly, his name has not been disclosed by the person, who was allegedly nabbed with the contraband weighing 2.290 Kgs of Charas. He, on inquiry, disclosed the name of A-2, as the person, who fled from the spot and when, the identification of the third person had been inquired from him, he could not disclose the name or any physical description of the applicant.

14. In such situation, the stand of the police qua A-2 and the applicant voluntarily appeared before the Police are more than sufficient to record the findings that at this stage, there are reasonable grounds to believe that the applicant is not guilty of such offence and 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.

15. The alleged voluntariness of the applicant to put appearance is a fact, which had not been clarified by the prosecution, neither in the status report not in the charge-sheet, which had been filed before the learned trial Court.

16. Perusal of the record shows that the police has recorded the statements of C. Rajeev No.694, HC Manoj No.134, C.Neeraj No.382, C. Vinay No.1563, C.Ram Prasad No.446, who have mentioned, in their statements, that apart from A-2, a person namely Rahul, after opening the window of the car, had fled away from the spot, whereas, it is not the case of the police that the applicant was identified by police officials. In their statements, recorded under Section 180 of BNSS, it has not been mentioned that they had seen the persons, who had fled away from the spot, nor the description of the persons, who had fled away from the spot has been noted by the I.O., as well as, other police officials, who were present on the spot.

17. Even otherwise, for the second 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.

18. Considering all these facts, this Court has no legal hesitation to record the findings, at this stage, that there are reasonable grounds for believing that the applicant is not guilty of such offence and in case, he is ordered to be released, on bail, he is not likely to commit any offence.

19. Considering all these facts, this Court is of the view that the bail application is liable to be allowed and is accordingly allowed.

20. Consequently, the applicant is ordered to be released on bail in case **FIR No.78 of 2025, dated 21.07.2025**, registered with **Police Station, Theog, District Shimla, H.P.**, under Sections 21 and 29 of the NDPS Act, on his furnishing personal bond in the sum of Rs.1,00,000/-, with two sureties, in the like amount, to the satisfaction of learned trial Court.

21. This order, 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.

22. 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 application.

23. 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.

24. The Registry is directed to forward a soft copy of the bail order to the Superintendent Jail, District Jail, Kaithu, District Shimla, through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

25. In case, the applicant is not released within a period of seven days from the date of grant of bail, the Superintendent Jail, District Jail, Kaithu, District Shimla, is directed to inform this fact to the Secretary, DLSA, Shimla. The Superintendent Jail, District Jail, Kaithu, District Shimla, is further directed that if the applicants fail 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.

(Virender Singh)
Judge

September 14, 2025 (*ps*)

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