

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

**Cr.MP(M) No. 1670 of 2026
Reserved on 29th September, 2026
Decided on 30th September, 2026**

Narender Kumar @ Tiku

...Petitioner

Versus

State of HP

.....Respondent

Coram

Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.

¹Whether approved for reporting?

For the petitioner : Mr. Vipin Pandit, Advocate.

For the respondent/State : Mr. Prashant Sen, Deputy Advocate General, assisted by HASI Rajender Kumar, No.102 Police Station Parwanoo, District Solan, HP.

Chirag Bhanu Singh, Judge

The petitioner has preferred an application under Section 483 of Bharatiya Nagarik Suyraksha Sanhita, 2023 (for short "BNSS") seeking post-arrest bail in case FIR No. 55 of 2026, dated 27.04.2026 registered at Police Station Parwanoo, District Solan, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as "the Act").

2. The facts which emerge from the status report, so filed by the State is that on 27.04.2026, a police party headed by SI Narender Kumar had left for partolling. When the police patrol was present near the Parwanoo-Kasauli bifurcation, next to the police booth at about 7:00 AM, a secret information had been received that the petitioner-accused Narender Kumar alias Tiku was dealing in narcotics. In case his house is raided, a huge recovery of drugs can be made.

3. Acting swiftly, the Investigating Officer, ASI Narender Kumar recorded the reasons of belief under Section 42 of the Act and sent the same through Constable Puneet Kumar to the Supervisory Officer of Police Station Parwanoo.

4. While the police patrol was on its way to the house of the accused, one Arnest Joseph son of late Sh. Joseph Lawrence and Naveen Kumar son of late Sh. Atma Ram, had met the police party near the Sector-4 market at Parwanoo. After having associated them as independent witnesses, the raiding party had proceeded to the house of the accused. The raiding party met the accused, along with his mother Veena Devi and wife Lalita Kumari at his house. The Investigating Officer had also

given the search of the raiding party to the petitioner/accused. Nothing incriminating was found on their persons.

5. While effecting the search of his house in the presence of the independent witnesses, the Investigating Officer had recovered one black polythene packet, tied with a knot, lying at the place of worship. On opening the black polythene, one white polythene packet was found, and inside the white polythene packet, the contraband came to be discovered. On weighing, it was found to be 10.03 grams. The contraband was taken into possession by the Investigating Officer. After following the codal formalities, the petitioner came to be arrested at the spot.

6. I have heard the learned counsel for the parties and gone through the records meticulously.

7. It was urged with vehemence by the learned counsel for the petitioner/accused that “intermediate” quantity of contraband had been recovered from the petitioner, and as such, the rigors of Section 37 would not apply with the same force. Though one case had been registered against the petitioner, but he had been pleaded guilty and had been sentenced to pay a fine of Rs.10,000/- only because the contraband had been kept by the

petitioner for self-consumption, as he was addicted to the same. The learned counsel for the petitioner would further urge that the quantity recovered in earlier case was small in quantity. Seeing to the quantity of contraband recovered, which is also intermediate, the petitioner was entitled to the concession of bail.

8. Per contra Sh. Prashant Sen, the learned Deputy Advocate General for the State has vociferously urged that keeping in view the past antecedents of the petitioner, it seems that his *modus operandi* is to carry small quantity of contraband. There are chances that the petitioner may again indulge in same and similar activities in the future too. The petitioner seems to be a habitual offender. The discretion of bail, thus, cannot be exercised in his favor.

9. The perusal of the report does show that the quantity of contraband recovered in the present case is indeed “less than commercial”, being 10.03 grams of opium and as such, the rigors of Section 37 will not *stricto sensu* apply in the facts and circumstances of the present case with the same vigour.

10. The registration of the earlier case and his acquittal shows that the contraband recovered earlier was for his

personal consumption as he was addicted to it. Nonetheless, the quantity recovered was “small quantity”.

11. It further transpires that the prosecution has already filed the charge sheet, and the matter is listed for consideration of charges on 29.09.2026. The examination of the remaining witnesses is likely to take time. Pre-trial incarceration is otherwise generally loathed by the Courts, as has been held by the Hon’ble Supreme Court in catena of decisions including ***Union of India vs. K.N. Nazeeb 2021 (3) SCC 713.***

12. Though a repeat offender under normal circumstances this Court would not have exercised discretion in his favour but seeing to the peculiar circumstances, discussed above and keeping in view the fact that the quantity of contraband recovered from the accused in the present case is less than commercial and the trial is likely to take time and he already stands acquitted in the case registered earlier against him. it would in the interest of justice and fairplay that the discretion of bail is exercised in his favour, but subject to strict terms. Even otherwise, seeing to the fact that earlier the petitioner was himself addicted to the drug, and he had pleaded guilty, the petitioner can

be afforded an opportunity to reform himself. We can even put to strict terms to keep him in check.

13. As a sequel, while allowing the present petition, it is directed that in case the petitioner is henceforth found to be indulging in any similar activity and an FIR is registered against the petitioner under the provisions of the Act, not only the present bail granted shall stand forfeited but, the State would be at liberty to take steps for seeking preventive detention of the petitioner.

14. For all the reasons discussed hereinabove, the bail petition is thus allowed. As a sequel, the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the tune of Rs.50,000/- with two local sureties of the like amount, to the satisfaction of the learned trial Court subject to the following conditions:-

- i) That the petitioner shall not tamper with the prosecution evidence nor intimidate, threaten or coerce the witnesses conversant with the facts of the case;
- ii) That the petitioner shall put in appearance before the Investigating Officer or the Court as and when directed;
- iii) That the petitioner shall not leave the territory of

India without the express permission of the Court, he shall surrender passport, if any, before the investigating agency;

iv) If the bail petitioner is found to be indulging in similar cases in the future and an FIR is registered against him under the NDPS Act, his bail shall be liable to be cancelled forthwith and the State shall also be at liberty to take steps for seeking preventive detention of the petitioner.

15. The observations, made hereinabove, shall not be taken, as an expression of opinion, on the merits of the case, as these observations are confined only for the purposes of the disposal of the present petition.

16. Petition stands disposed off in the aforesaid terms, so also the pending miscellaneous applications, if any.

30th September, 2026
(Ritu)

(Chirag Bhanu Singh)
Judge

RITU
RANI

Digitally signed
by RITU RANI
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