

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.1650 of 2026

Date of Decision: 3.9.2026

Rajesh Kumar

.....Petitioner

Versus

State of Himachal Pradesh

.....Respondent

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. Divya Raj Singh, Advocate.

For the Respondent: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General and Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General.

Sandeep Sharma, J. *(Oral)*

Bail petitioner namely Rajesh Kumar, who is behind bars since 18.02.2026, has approached this Court in the instant proceedings filed under Section 483 of Bharatiya Nagrik Suraksha Sanhita (hereinafter 'BNSS') for grant of regular bail in FIR No.29 of 2026, dated 18.02.2026, under Sections 21, 25 & 29 of ND & PS Act, registered at Police Station Bhuntar, District Kullu, Himachal Pradesh.

2. Pursuant to directions issued by this Court, respondent-State has filed status report and HC Tilak Raj has come present with record. Record perused and returned.

3. Close scrutiny of record/status report made available to this Court reveals that on 18.02.2026, Police noticed an Alto 800 bearing registration No.HP34-C-5697, which was parked near Parvati river, under suspicious circumstances and as such, deemed it necessary to cause search of the same as well as occupants thereof. Allegedly police, after having associated independent witnesses, conducted search of the aforesaid vehicle in the presence of present bail petitioner Rajesh and co-accused Ashish and recovered 6.7 grams of Chitta from beneath the driver's seat. Since no plausible explanation ever came to be rendered on record qua possession of aforesaid quantity of contraband, police, after having completed all codal formalities, lodged FIR, as detailed hereinabove, against both the occupants of the car and since then, they are behind bars.

4. Since challan stands filed in the competent Court of law and nothing remains to be recovered from the bail petitioner, petitioner has approached this Court in the instant proceedings for grant of regular bail.

5. Mr. Ravi Chauhan, learned Deputy Advocate General, while fairly admitting factum with regard to filing of the challan in the competent court of law, states though nothing remains to be recovered from the bail-petitioner, but keeping in view the gravity of offence alleged to have been committed by him, he does not deserve any leniency. He states that bail

petitioner is a drug peddler and as such, in the event of his being enlarged on bail, he may not only flee from justice but may again indulge in these actives.

6. Having heard learned counsel for the parties and perused material available on record, this Court is not persuaded to agree with Mr. Divya Raj, learned counsel for the petitioner, that bail petitioner has been falsely implicated, rather this Court finds that an intermediate quantity of contraband came to be recovered in the presence of independent witnesses from the car, in which petitioner was also travelling. However, having taken note of the fact that bail petitioner is behind bars for almost six months, coupled with the fact that rigors of Section 37 of the Act are not attracted on account of recovery of intermediate quantity of contraband, this Court is persuaded to consider the prayer made on behalf of the petitioner for grant of bail. Though it came to be vehemently argued at the behest of the respondent-State that bail petitioner is a drug peddler, but in that regard, no cogent and convincing evidence ever came to be led on record. It appears that bail-petitioner has become drug addict and as such, in that situation, it may not appropriate to keep him behind bars, rather he deserves to be provided immediate medical aid and appropriate de-addiction treatment so as to facilitate his rehabilitation and enable him to return to the

mainstream of society at the earliest. Indefinite incarceration of such a person may turn him into a hardened criminal and as such, this Court, having taken note of the fact that bail-petitioner is behind bars for six months, coupled with the fact that guilt, if any, of the bail-petitioner is yet to be established on record by leading cogent and convincing evidence, sees no reason to let the bail-petitioner incarcerate in jail for indefinite period during trial.

7. Hon'ble Apex Court as well as this Court have held in catena of cases that one is deemed to be innocent till the time his/her guilt is not proved, in accordance with law. Since guilt, if any, of the bail petitioner is yet to be established on record by the prosecution by leading cogent and convincing evidence, this court sees no reason to curtail the freedom of the bail petitioner for an indefinite period during trial. Apprehension expressed by learned Deputy Advocate General, that in the event of being enlarged on bail, bail petitioner may flee from justice can be best met by putting the bail petitioner to stringent conditions.

8. Needless to say, object of the 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, bail is not to

be withheld as a punishment. Otherwise also, normal rule is of bail and not jail. Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

9. Hon'ble Apex Court in Criminal Appeal No. 227/2018, **Dataram Singh vs. State of Uttar Pradesh & Anr** decided on 6.2.2018 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 been further held by the Hon'ble Apex Court in the aforesaid judgment that a person is believed to be innocent until found guilty.

10. In **Manoranjana Sinh alias Gupta versus CBI**, (2017) 5 SCC 218, Hon'ble Apex Court has held that the object of the 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. Apart from above, Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment, which conviction will entail, character of the

accused, circumstances which are peculiar to the accused involved in that crime.

11. The Apex Court in **Prasanta Kumar Sarkar versus Ashis Chatterjee and another** (2010) 14 SCC 496, has laid down various principles to be kept in mind, while deciding petition for bail viz. prima facie case, nature and gravity of accusation, punishment involved, apprehension of repetition of offence and witnesses being influenced.

12. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, bail-petitioner has carved out a case for grant of bail, accordingly, the petition is allowed and the bail-petitioner is ordered to be enlarged on bail in 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 concerned Chief

13. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, petitioner has carved out a case for grant of bail, accordingly, the petition is allowed and the petitioner is ordered to be enlarged on bail in aforesaid FIR, subject to his furnishing personal bond in the sum of Rs. 2,00,000/- with two local sureties in the like amount each to the satisfaction of learned trial Court, with following conditions:

- a. 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 do so, seek exemption from appearance by filing appropriate application;
- b. He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;
- c. He shall not make any inducement, threat or promises 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
- d. He shall not leave the territory of India without the prior permission of the Court.
- e. He shall surrender his passport, if any, before the investigating agency.

14. It is clarified that if the petitioner misuses the liberty or violates any of the conditions imposed upon him, the investigating agency shall be free to move this Court for cancellation of the bail.

15. Any observations made hereinabove shall not be construed to be a reflection on the merits of the case and shall remain confined to the disposal of this application alone. The petition stands accordingly disposed of.

16. A downloaded copy of this order shall be accepted by the learned trial Court, while accepting the bail bonds from the petitioner and in case, said court intends to ascertain the veracity of the

downloaded copy of order presented to it, same may be ascertained from the official website of this Court.

September 03, 2026

(manjit)

**(Sandeep Sharma),
Judge**