

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. MP(M) No. 1807 of 2026****Reserved on: 06.10.2026.****Decided on: 09.10.2026**

Anku**.... Petitioner****Versus****State of H.P.****.... Respondent**

Coram***Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting?¹ No*****For the Petitioner : Mr Rakesh Kumar Chaudhary,
Advocate.****For the Respondent/State : Mr Jitender Sharma, Additional
Advocate General.**

Rakesh Kainthla, Judge

The petitioner has filed the present petition seeking regular bail in FIR No. 250 of 2024 dated 08.11.2024 registered at Police Station Nurpur, District Kangra, for the commission of offences punishable under Sections 20, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act (in short "NDPS Act"), 1985.

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

2. It has been asserted that, as per the prosecution, the police had set up a naka on 07.11.2024 at Jachh near HRTC workshop, Jassaur. They intercepted a vehicle bearing registration No. HP-73-5581 at about 07:30 p.m. They found 3 kg 400 grams of charas during the search of the vehicle. The police arrested the occupants. These allegations are false. There is no material to connect the petitioner to the commission of the crime. The petitioner was arrested after 22 days of the lodging of the FIR. The petitioner had earlier filed a bail petition which was registered as Cr. M.P. (M) No. 1159 of 2025 titled Anku versus State and was dismissed by the Court on 28.06.2025. The petitioner filed an SLP (Criminal) No. 758 of 2026, which was dismissed by the Hon'ble Supreme Court on 16.02.2026 with a direction to conclude the trial within 6 months from the date of receipt of the order and the petitioner was given liberty to revive his application for bail in case the trial was not concluded within 6 months. The petitioner has remained in custody for more than 1 year and 9 months. The prosecution has not completed the evidence against the petitioner, which violates the petitioner's right to a speedy trial. The petitioner would abide by the terms and conditions that the Court may impose. Hence, it was prayed that the present petition be allowed and the petitioner be released on bail.

3. The petition is opposed by filing a status report asserting that the police party signalled the driver of the vehicle bearing registration No. HP-73-5581 on 07.11.2024 to stop during Nakka. The driver turned his vehicle towards Nurpur; however, the vehicle stalled. The driver ran away from the spot. The police ran after the driver but could not apprehend him. The police searched the vehicle and recovered 3.400 grams of cannabis concealed in sacks of maize and peas. The police seized the cannabis and conducted the investigation. The police checked the CCTV footage and interrogated the owner of the vehicle, who revealed that her son, Vipin Kumar, was driving the vehicle at the time of the incident. The petitioner, Anku, had loaded 36 bags of maize and peas into the vehicle. The police checked the call detail records and found that Vipin Kumar and Anku were in touch with each other. The vehicle was driven on a route where no entry regarding its movement would be recorded. The police arrested Anku. Cannabis was sent to SFSL, Junga, and it was found to be a sample of charas after analysis. The sacks were released by Pammi, the brother of Anku. Bhupinder @ Vipin Kumar was arrested on 01.03.2025. F.I.R. No. 231 of 2019, dated 21.06.2019 for the commission of offences punishable under Sections 363, 366, 120B IPC at Police Station Pinjore, District Panchkulla, Haryana and

F.I.R. No. 55 of 2024, dated 11.03.2024 for the commission of offences punishable under Sections 20, 25 and 29 of NDPS Act at Police Station Baddi, District Solan, H.P. were registered against the petitioner. The prosecution has cited 43 witnesses, out of whom statements of 41 witnesses have been recorded, and the matter is listed for recording the statements of prosecution witnesses on 26.10.2026. Hence, the status report.

4. I have heard Mr Rakesh Kumar Chaudhary, learned counsel for the petitioner and Mr Jitender Sharma, learned Additional Advocate General for the respondent/State.

5. Mr Rakesh Kumar Chaudhary, learned counsel for the petitioner, submitted that the petitioner is innocent and he was falsely implicated. The learned Trial Court failed to complete the evidence despite the specific direction of the Hon'ble Supreme Court of India, and the petitioner's cooperation. The petitioner cannot be kept behind the bars indefinitely. Therefore, he prayed that the present petition be allowed and the petitioner be released on bail.

6. Mr Jitender Sharma, learned Additional Advocate General for the respondent/State, submitted that the prosecution has examined 41 witnesses out of 43 witnesses cited by the prosecution.

The trial has almost concluded. The petitioner was found in possession of the commercial quantity of charas, and the rigours of Section 37 of the NDPS Act apply to his case. The petitioner has not satisfied the rigours of Section 37 of ND Act, and he is not entitled to bail. Hence, he prayed that the present petition be dismissed.

7. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

8. It is undisputed that the petitioner had earlier filed a bail petition which was listed as Cr.MP(M) No. 1159 of 2025 and was dismissed on 28.06.2025. The petitioner had approached the Hon'ble Supreme Court of India in SLP Criminal No. 758 of 2026, and the Hon'ble Supreme Court of India was pleased to direct the learned Court to conclude the trial within a period of 6 months from the date of receipt of the order. The Hon'ble Supreme Court of India had passed the order on 16.02.2026. More than 8 months have elapsed since the passing of the order. The order sheets maintained by the learned Trial Court show that the prosecution failed to produce the witnesses summoned by the learned Trial Court, and the evidence could not be concluded within the time granted by the Hon'ble Supreme Court of India. The learned Trial Court also failed to ensure

the conclusion of the trial within the time granted by the Hon'ble Supreme Court of India. Therefore, in these circumstances, the plea taken by the petitioner has to be accepted as correct that his right to speedy trial is being violated and the trial is not being concluded despite the directions issued by the Hon'ble Supreme Court of India.

9 It was submitted that the petitioner was found in possession of commercial quantity of charas and rigours of Section 37 of the NDPS Act apply to the present case, the petitioner has not satisfied the twin requirements laid down under Section 37 of the NDPS Act, and he is not entitled to bail. This submission will not help the State. It was laid down by the Hon'ble Supreme Court of India in *Mohd. Muslim v. State (NCT of Delhi)*, (2023) 18 SCC 166: 2023 SCC OnLine SC 352, that the violation of the right to a speedy trial would override the provisions of Section 37 of the NDPS Act and the accused cannot be kept behind bars indefinitely. This Court also held in *Rajesh Kumar vs. State in Cr.MP(M) No. 451 of 2026 decided on 21.04.2026* that the violation of the right to a speedy trial would entitle a person to bail.

10. In the present case, also the petitioner's right to speedy trial is being violated; hence he is entitled to bail.

11. In view of the above, the present petition is allowed, and the petitioner is ordered to be released on bail on the terms and conditions to be imposed by the learned Trial Court.

12. A copy of this order be sent to the Jail Superintendent, Lala Lajpat Rai District and Open-Air Correctional Home Dharamshala and the learned Trial Court by *FASTER*.

13. The observation made hereinbefore shall remain confined to the disposal of the instant petition and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

9th October, 2026
(Nikita)

CHANDER
SHEKHAR

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by CHANDER
SHEKHAR
Date: 2026.10.09
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