

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

Cr. MP (M) No. 1698 of 2026

Date of Decision: 6.10.2026

Deepu	Versus	...Petitioner
State of Himachal Pradesh		...Respondent

Coram:

The Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?¹

For the Petitioner	Mr. Lalit Kumar Sehgal and Ms. Meenakshi Thakur, 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 Deepu, who is behind bars since 08.03.2026 has approached this Court in the instant proceedings filed under Section 483 BNSS for grant of regular bail in case FIR No. 39/2026 dated 08.03.2026 registered at Police Station Shimla (West), Baluganj, District Shimla under Sections 21 and 29 of NDPS Act.

2. Respondent-State has filed the status report, perusal whereof reveals that on 08.03.2026, police after having received secret information that person namely Deepu i.e. bail petitioner, indulges in illegal trade of

¹ Whether reporters of the local papers may be allowed to see the judgment?

narcotics, intercepted one car bearing registration No. HP-63C-8457 (Swift) at 03:50 AM for checking. Since occupants of the car got perplexed after having seen the police and started making excuses, police deemed it necessary to cause personal search as well as of the vehicle and allegedly in presence of independent witnesses, recovered 6.470 grams of chitta kept beneath the foot mat of front seat.

3. Since no plausible explanation ever came to be rendered on record by the occupants of the car qua possession of the aforesaid quantity of contraband, police after having completed necessary codal formalities lodged FIR detailed herein above and since then, bail petitioner is behind the bars, whereas other co-accused namely Karan Singh stands enlarged on bail.

4. Though bail petitioner also applied for bail before learned trial Court as well as this Court, but same was dismissed for the reason that in past, two cases stand registered against him.

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

6. While fairly acknowledging factum with regard to filing of challan in competent Court of law, Mr. Vishal Panwar, learned Additional Advocate General, states that though nothing remains to be recovered from bail petitioner, but keeping in view the gravity of offence alleged to have been committed by him, he does not deserve any leniency. He further states that bail petitioner is a drug peddler, who in the event of his being enlarged on bail, may not only flee from justice but may again indulge in these activities. To substantiate his aforesaid submission, he specifically referred to the status report, wherein it is mentioned that in past two cases under NDPS Act stand registered against the petitioner. He states that petitioner cannot claim parity with co-accused Karan Singh, who was enlarged on bail on account of his being first offender, whereas petitioner is a drug peddler.

7. Having heard learned counsel for the parties and perused material on record, this Court is not persuaded to agree with Ms. Meenakshi Sharma, learned counsel representing the petitioner that petitioner has been falsely implicated, rather this Court finds that intermediate quantity of contraband was recovered from conscious possession of the petitioner in the presence of independent

witnesses. However, having taken note of the fact that bail petitioner is behind bars for almost seven months and other co-accused Karan Singh already stands enlarged on bail, this Court is persuaded to consider the prayer made on behalf of petitioner for grant of bail.

8. No doubt, in past, two cases stand registered against the petitioner, but such fact, if any, may not dissuade this Court to consider prayer made for grant of bail, especially when it is not in dispute that guilt, if any, of the petitioner in those cases is yet to be established on record.

9. Though Mr. Vishal Panwar, learned Additional Advocate General, vehemently argued that bail petitioner is a drug peddler, but in that regard, no cogent and convincing evidence ever came to be adduced on record. Quantity of contraband, recovered in FIR registered prior to present FIR, nowhere suggests that bail petitioner is a drug peddler, rather this Court is persuaded to agree with learned counsel representing the petitioner that bail petitioner has become a drug addict. If it is so, no fruitful purpose would be served by keeping him behind bars for indefinite period, rather he is required to be provided immediate medical assistance so that he is brought back to mainstream at the earliest.

10. Moreover, considerable time is likely to be consumed in trial and as such, in case petitioner is left to incarcerate in jail during trial, it may not only amount to pre trial conviction, but would also violate Article 21 of the Constitution of India, which is not permissible.

11. Leaving everything aside, rigours of Section 37 of the NDPS Act are not attracted in the present case on account of recovery of intermediate quantity of contraband.

12. Hon'ble Apex Court and this Court in a catena of cases have repeatedly held that one is deemed to be innocent, till the time, he/she is proved guilty in accordance with law. In the case at hand, complicity, if any, of the bail petitioner is yet to be established on record by the investigating agency. Apprehension expressed by learned Deputy Advocate General, that in the event of being enlarged on bail, bail petitioner may flee from justice or indulge in such offences again, can be best met by putting the bail petitioner to stringent conditions.

13. 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.

14. 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.

15. Hon'ble Apex Court in ***Sanjay Chandra versus Central Bureau of Investigation (2012)***¹ ***Supreme Court Cases 49*** has held that gravity alone cannot be a decisive ground to deny bail, rather competing factors are required to be balanced by the court while exercising its discretion. It has been repeatedly held by the Hon'ble Apex Court that object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative.

16. 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.

17. 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.

18. 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.**

19. 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.

20. 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.

21. 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.

(Sandeep Sharma)
Judge

October 6, 2026
(manjit)