

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr. MP (M) No.1739 of 2026

Date of Decision: 22.09.2026

Ratnesh

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram:

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

Whether approved for reporting?¹

For the Petitioner:

Mr. Ganesh Barowalia, Advocate.

For the Respondent:

Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocate Generals with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General.

Sandeep Sharma, J. (Oral)

Bail petitioner, namely Ratnesh, who is behind bars since 15.02.2026, has approached this Court in the instant proceedings filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail in case FIR No. 48 of 2026, dated 15.02.2026, registered at Police Station, Baddi, District Solan, Himachal Pradesh under Sections 18, 29, 61 and 85 of the Narcotic Drugs and Psychotropic Substances Act(for short' Act').

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

2. Pursuant to the notice issued in the instant proceedings, respondent-State has filed status report and ASI Amit Kumar, has come present alongwith record. Record perused and returned.

3. In nutshell, case of prosecution is that on 15.02.2026, police received secret information that owner of Ashu Meals Dhaba, namely Amit Kumar and his helper, namely Ratnesh Kumar i.e. present bail petitioner, resident of Bareilly, Uttar Pradesh, indulge in illegal trade of narcotics. In the aforesaid background, police, after having associated independent witnesses, raided the Dhaba named hereinabove and allegedly recovered 812 grams of opium from the wooden counter of Ashu Meals Dhaba in the presence of independent witnesses. Since no plausible explanation ever came to be rendered on record qua possession of aforesaid quantity of contraband, police after having completed necessary codal formalities, lodged FIR and arrested both accused named hereinabove. Accused Amit Kumar, owner of the Dhaba, already stands enlarged on bail vide order dated 14.07.2026, passed in Cr.M.P.(M) No. 1170 of 2026, whereas present petitioner is behind bars. Since challan stands filed in competent court of law and nothing remains to be recovered from him, prayer has been made on behalf of the petitioner for grant of regular bail.

4. While fairly acknowledging factum with regard to filing of challan in the competent court of law, Mr. Rajan Kahol, learned Additional Advocate General, states that though nothing remains to be recovered from the petitioner, but keeping in view gravity of offence alleged to have been committed by him, he does not deserve any leniency. He states that there is overwhelming evidence adduced on record suggestive of the fact that bail petitioner is a drug peddler, who had brought contraband from the State of Uttar Pradesh for selling the same in the Dhaba run by co-accused Amit Kumar. To substantiate his aforesaid claim, he specifically referred to status report, wherein it is recorded that in past, one case under NDPS Act already stands registered against the petitioner. While fairly admitting factum with regard to enlargement of co-accused on bail, Mr. Kahol states that petitioner cannot claim any parity with co-accused Amit Kumar because in that case, Court arrived at a conclusion that there is nothing on record to suggest that Amit Kumar, being owner of the Dhaba, had any knowledge with regard to possession of contraband by present bail petitioner. He states that since petitioner hails from the State of Uttar Pradesh, coupled with the fact that in past, one case stands registered against him, it would not be in the interests of justice to enlarge him on bail, because in that event, he may not only flee from justice, but may again indulge in these activities.

5. Having heard learned counsel for the parties and perused material available on record, this Court finds that intermediate quantity of contraband was recovered from the wooden counter of the Dhaba run by co-accused Amit Kumar. Though, case of prosecution is that contraband recovered from possession of the petitioner was actually brought by present bail petitioner and no money was paid by co-accused Amit Kumar, but once it is not in dispute that contraband was recovered from wooden counter of the Dhaba, it would be too premature to conclude that co-accused Amit Kumar had no knowledge that present petitioner had brought contraband from Uttar Pradesh. Whether co-accused Amit Kumar or present bail petitioner had knowledge with regard to contraband, which was found to be kept in wooden counter of the Dhaba, is a question to be determined by learned Court below on the basis of totality of evidence collected on record by prosecution.

6. No doubt, in past, one case stands registered against the petitioner, but such fact may not dissuade this Court from considering the prayer made on behalf of the petitioner for grant of bail, for the reason that guilt, if any, of the petitioner in case registered against him in the year 2019 is yet to be established on record. Moreover, rigours of Section 37 of the NDPS Act are not attracted in the present case on account of recovery of

intermediate quantity of contraband and as such, having taken note of the fact that bail petitioner is behind bars for more than six months, coupled with the fact that considerable time is likely to be consumed in conclusion of trial, this Court sees no reason to let the petitioner incarcerate in jail for indefinite period during trial, especially when nothing remains to be recovered from him.

7. Hon'ble Apex Court as well as this Court in catena of cases have repeatedly held that one is deemed to be innocent till the time guilt, if any, of his/her is not proved in accordance with law. In the case at hand also, guilt, if any, of the accused is yet to be proved in accordance with law, by leading cogent and convincing material on record and as such, his incarceration for indefinite period is clear cut violation of Fundamental Right granted under Article 21 of the Constitution of India. Apprehension expressed by the learned Additional Advocate General that in the event of petitioner's being enlarged on bail, he may flee from justice, can be best met by putting the bail petitioner to stringent conditions as has been fairly stated by the learned counsel for the petitioner

8. 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.

9. 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.

10. In ***Manoranjana Singh 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, 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 to the satisfaction of concerned Chief Judicial Magistrate/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.**

13. 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.

14. 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.

15. The petitioner is permitted to produce copy of the order downloaded from the High Court Website and the trial court shall not insist for certified copy of the order, however, it may verify the order from the High Court website or otherwise.

(Sandeep Sharma)
Judge

September 22, 2026
(shankar)