

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.1768 of 2026
Date of Decision: 22.09.2026

Prajwal Sharma Petitioner

Versus

State of HP ... Respondent

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹

For the Petitioner : Mr. Anirudh R.H. Sharma, Advocate.

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

ASI Anuj Kumar, PD Baddi, District
Solan, Himachal Pradesh, present in
person along with record.

Sandeep Sharma, Judge(oral):

Bail petitioner namely Prajwal Sharma, who is behind bars since 06.12.2025, 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.301 of 2025, dated 05.12.2025, under Sections 22 & 29 of ND & PS Act, registered at Police Station Baddi, District Solan, Himachal Pradesh.

2. In terms of order dated 10.09.2026, respondent-State has filed status report and ASI Anuj Kumar has come present with record. Record perused and returned.

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

3. Close scrutiny of status report/ record reveals that on 05.12.2025, police, after having received secret information to the effect that person namely Prajwal Sharma, indulges in illegal trade of narcotics, constituted a raiding party and allegedly recovered 360 bottles of Syrup namely Zing Cirex-T containing Triprolidine Hydrochloride and Codeine Phosphate Syrup in the presence of independent witnesses. Out of aforesaid 360 bottles, 14 bottles were having label of CSD Life sciences, whereas the remaining bottles were without any label. Since no plausible explanation ever came to be rendered on record qua possession of aforesaid bottles of cough syrup containing narcotic substance i.e. codeine phosphate, police, after having completed necessary codal formalities, lodged FIR detailed hereinabove against the present bail-petitioner, who allegedly during investigation disclosed that accommodation in which he along with co-accused Pardeep resides, is in the name of CSD Life Sciences. Petitioner also disclosed to the Police that bottles recovered from him were stacked by the co-accused Pardeep on the askance of owner of CSD Life Sciences namely Vishal. Though Police arrested co-accused Pardeep, whereas owners of CSD Life Sciences namely Vishal and Sachin along with Production Manager Alok Dhar Dwivedi, approached the Court of learned Sessions Judge, Solan, by way of bail petition filed under Section 482 Bharatiya Nagrik Suraksha

Sanhita for grant of anticipatory bail, however, the same was dismissed and as such, afore persons approached this Court by way of Cr.MP(M) Nos. 137, 182 and 222 of 2026 for grant of anticipatory bail and this Court vide order dated 06.03.2026, enlarged them on bail.

4. Precisely, the case of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Anirudh R.H. Sharma, learned counsel representing petitioner, is that contraband was recovered from the room hired by CSD Life Sciences, owners whereof already stand enlarged on bail. He states that co-accused Pradeep was living in the room in question and he had left the room 15 minutes prior to alleged raid. He states that petitioner as well as co-accused Pardeep were living in the room, from where contraband came to be recovered and as such, he also deserves to be enlarged on bail on the ground of parity.

5. Mr. Vishal Panwar, Additional Advocate General, while fairly admitting factum with regard to filing of challan in the competent Court of law, states that 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, rather needs to be dealt with severely. He states that 360 bottles of syrup containing codeine phosphate were recovered from the room of

present bail-petitioner. He states that at the time of raid, present bail-petitioner was present in the room and as such, he rightly came to be arrested. He states that as per record of CSD Life Sciences, 360 bottles were not manufactured there, rather all the drugs manufactured by CSD Life Sciences were sent to Kanpur. He states that though 360 bottles containing narcotic substance were not recovered from the conscious possession of bail-petitioner, but he, being one of the occupants of the room, is liable to be prosecuted under Section 29 of ND&PS Act. He states that as per forensic report, all the bottles recovered from the room of employee of CSD Life Sciences contained prohibited drug, namely codeine phosphate. He states that since petitioner has indulged in heinous crime having adverse impact on the society, he does not deserve any leniency and his prayer for grant of regular bail deserves to be rejected.

6. Having heard learned counsel for the parties and perused material available on record, this Court finds that 360 bottles of Syrup namely Zing Cirex-T containing Triprolidine Hydrochloride and Codeine Phosphate were never recovered from the factory premises of CSD Life Sciences, rather same were recovered from the room of an employee namely Prajwal Sharma, who alleged that these bottles were stored by him as well as bail petitioner on the askance of the partner of the company namely Vishal. It is also not in dispute that

during investigation, police found that entire bulk of drug manufactured in the premises of the CSD Life Sciences was sent to Kanpur as per invoice and there is no record, if any, of 360 bottles recovered from the room of co-accused Prajwal Sharma.

7. In nutshell, case of the prosecution is that since there is no record of 360 bottles recovered from the room of bail petitioner and co-accused Pradeep, coupled with the fact that accused Pradeep and bail petitioner are the employees of CSD Life Sciences, bail-petitioner, being an employee of the company as well as occupant of room, has to answer the question that as to why and in what circumstances 360 bottles of Syrup containing Codeine Phosphate were manufactured in the premises of CSD Life Sciences and thereafter how the same were removed from factory premises to his room.

8. True it is that room, from which co-accused Prajwal Sharma was apprehended, was taken on lease in the name of CSD Life Sciences, but such fact, if any, may not be sufficient to conclude the complicity, if any, of the petitioner, especially when it is not in dispute that co-accused Pardeep was also residing in the room. Interestingly, in the case at hand, 14 bottles out of 360 bottles were having label of CSD Life Sciences, whereas remaining 346 bottles were without any label. "Whether such bottles were manufactured in the premises of CSD Life Sciences is a question to be decided by the

learned trial Court in totality of evidence collected on record by the prosecution?"

9. Leaving everything aside, once it is not in dispute that contraband involved in the case was not recovered from the conscious possession of the bail-petitioner, rather same was recovered from the room hired by the CSD Life Sciences and at the time of recovery of contraband, present bail-petitioner and co-accused Pardeep were residing in the room and as such, it would be too premature to decide the complicity of the petitioner in the case at hand. Since co-accused Pardeep, who actually had been residing in the room for quite long, has already been enlarged on bail, there appears to no justification to let the bail-petitioner incarcerate in jail for indefinite period during trial, conclusion whereof is likely to take some time.

10. No doubt, rigors of Section 37 of ND & PS Act are attracted in the present case on account of recovery of commercial quantity of contraband, but bare perusal of Section 37 of ND & PS Act nowhere suggests that bail cannot be granted in cases involving commercial quantity of contraband, rather in such like cases, Court after affording due opportunity of being heard to Public Prosecutor may enlarge the applicant on bail, in case it is satisfied that accused

has been falsely implicated and in the event of his being enlarged on bail, he may not flee from justice.

11. Admittedly, in the case at hand, commercial quantity of contraband came to be recovered from the room, where the present petitioner was found to be residing, but this Court cannot lose sight of the fact that room, from where recovery came to be effected, was hired by CSD Life Sciences and therein employees of aforesaid company, including petitioner and co-accused Pradeep, were residing. At the time of recovery, co-accused Pradeep was not in the room, but both bail-petitioner and co-accused Pradeep have specifically stated that contraband was stored in the room on the askance of the owners of the company and as such, this Court is of view that it is yet to be established on record by the prosecution by leading cogent and convincing evidence that contraband recovered from the room hired by CSD Life Sciences was stored by the present bail-petitioner. At present, there is no cogent and convincing material to establish the guilt of the petitioner. Similarly, in past, no case stands registered against the petitioner and as such, he, otherwise being first offender, deserves leniency.

12. 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.

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. 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.

16. 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.

17. 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 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.

18. 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.

19. 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.

20. 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**

September 22, 2026
(sunil)