

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 1850 of 2026

Reserved on: 01.10.2026

Decided on: 05.10.2026

Uploaded on: 05.10.2026

Harish Chauhan

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram

Hon'ble Mr Justice Chirag Bhanu Singh, Judge.

Whether approved for reporting?¹

For the Petitioner : Mr. Harsh Vardhan, Advocate.

For the Respondent : Mr. Prashant Sen, Deputy Advocate General, assisted by ASI Brijesh Kumar, I/C P.P. Pajhauta, Police Station Rajgarh, District Sirmaur, H.P.

Chirag Bhanu Singh, Judge

The present bail petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, seeking post-arrest bail in case FIR No. 47 of 2026, dated 03.07.2026, registered at Police Station Rajgarh, District Sirmaur, H.P., under Sections 21 and 29 of the

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

Narcotic Drugs & Psychotropic Substances Act (hereinafter referred to as the “Act”).

2. The facts which emerge from the status report so filed by the State are that on 02.07.2026, HC Ravi Dutt, along with a police party, was on patrolling. At about 11:20 pm when the police patrol was near Giripul, a secret information was received that one vehicle bearing registration No. HP-63-B-8448, driven by Harish Chauhan and accompanied by Aakash Deep, was proceeding from Solan towards Giripul and that they were carrying a huge consignment of heroin (chitta). If intercepted, a huge quantity of contraband may be recovered from them.

3. Acting swiftly, the Investigating Officer, HC Ravi Dutt, recorded the reasons of belief under Section 42(2) of the Act and sent the same through Constable Ajay to the SDPO, Rajgarh. Since it was late in the night, no independent witnesses could be procured, therefore, the Investigating Officer was constrained to associate Constable Vikas and Constable Gaurav from amongst the police party as independent witnesses.

4. After the vehicle had been apprehended, in the presence of the independent witnesses, the Investigating Officer asked the occupants to disclose their names. The driver of the vehicle disclosed his name as Harish Chauhan, son of Mast Ram (petitioner), resident of Village Ser Gatta, Post Office Koti, Tehsil Junga, District Shimla, H.P., while the person seated in the rear seat had disclosed his name as Aakash Deep, son of late Shri Bhola Singh, resident of Village Aili, Post Office Kotla, Tehsil and District Solan, H.P. After having offered the search of the police party to the occupants, the Investigating Officer conducted the search of the vehicle. During the course of the search, a black backpack was found near the feet of co-accused Aakash Deep, who was sitting on the rear seat. On opening the backpack, one transparent polythene pouch and five unused insulin syringes were recovered. On checking the transparent polythene pouch, a light brown substance was found, which, on being tested with the help of a drug detection kit, was found to be heroin (chitta). On weighing, the contraband was found to be 38.95 grams.

5. After following the codal formalities, the Investigating Officer had taken the contraband into possession. The petitioner alongwith the co-accused also came to be arrested at the spot. He is presently in judicial custody.

6. No past antecedents have been reported in respect of the present petitioner. The challan is also stated to have been filed by the police.

7. I have heard the learned counsel for the parties and gone through the records meticulously.

8. It was urged with vehemence by the learned counsel for the petitioner that “intermediate” quantity of contraband had been recovered and, as such, the rigours of Section 37 of the Act would not apply with the same force. Neither any past antecedents of the petitioner have been reported, nor any recovery had been effected from him. The bag was found lying near the feet of the co-accused, who was

sitting on the rear seat. The petitioner was, thus, entitled to the discretion of bail.

9. *Per contra*, Mr. Prashant Sen, learned Deputy Advocate General for the State, has vociferously urged that the accused was arrested at the spot along with co-accused Aakash Deep. He was driving the vehicle in which the contraband was recovered. There is every likelihood that the petitioner may again indulge in the same or similar activities in the future. The discretion of bail, thus, may not be exercised in his favour.

10. Admittedly, the quantity of contraband recovered in the present case is intermediate, being 38.95 grams of heroin (chitta), and as such, the rigours of Section 37 of the Act will not, *stricto sensu*, apply to the facts and circumstances of the present case with the same vigour.

11. Admittedly, no case under the NDPS Act is reported to have been registered against the petitioner earlier. The recovery of the contraband is also not solely attributed to the petitioner. Both the petitioner and the co-accused Aakash

Deep are stated to have been implicated, though the backpack is reported to have been recovered lying near the feet of co-accused Aakash Deep, who was sitting on the rear seat of the car.

12. It further transpires from the record that the charge-sheet has already been filed. The culmination of the trial is thus likely to take sufficient time. Pre-trial incarceration is otherwise generally loathed by the Courts, as has been held by the Hon'ble Supreme Court in catena of decisions including *Union of India vs. K.N. Nazeeb* 2021 (3) SCC 713 & *Javed Gulam Nabi Shaikh vs. State of Maharashtra & Another* (Criminal Appeal No.2787 of 2024 decided on 03.07.2024).

13. “Bail, not jail” is the golden thread which has been running right through the various judgments rendered by the Hon'ble Supreme Court starting from *Gurbaksh Singh Sibbia & Others v. State of Punjab*, (AIR 1980 SC 1632), which has consistently been followed till the decision rendered in *P. Chidambaram v. Directorate of Enforcement*, (AIR 2019 SC 4198). The object of granting bail was further elucidated in *Sanjay*

Chandra & Others v. Central Bureau of Investigation, (AIR 2012 SC 830). The Hon'ble Supreme Court has further reiterated that grant of bail was a general rule, as was categorically held in *Dataram Singh v. State of Uttar Pradesh, [(2018) 3 SCC 22 : AIR 2018 SC 980]*

14. The Hon'ble Supreme Court and this Court, in a catena of decisions, have repeatedly held that an accused is presumed to be innocent until proven guilty. The trial is still at its inception and is likely to take sufficient time. Even otherwise, the quantity of contraband recovered in the present case is intermediate. The recovery is also not solely attributed to the petitioner. Co-accused Aakash Deep is also alleged to have been complicit in the commission of the offence. The petitioner also has no past antecedents relating to any narcotic offence.

15. For all the reasons discussed hereinabove, the bail petition is thus allowed. As a sequel, the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the tune of Rs.50,000/- with two local sureties of the like

amount, to the satisfaction of the learned trial Court subject to the following conditions:-

- "i) That the petitioner shall not tamper with the prosecution evidence nor intimidate, threaten or coerce the witnesses conversant with the facts of the case;
- ii) That the petitioner shall put in appearance before the Investigating Officer or the Court as and when directed;
- iii) That the petitioner shall not leave the territory of India without the express permission of the Court, he shall surrender passport, if any, before the investigating agency;
- iv) The bail petitioner shall not indulge in any similar offence hereinafter."

16. The observations, made hereinabove, shall not be taken, as an expression of opinion, on the merits of the case, as these observations are confined only for the purposes of the disposal of the present petition.

17. The petition stands accordingly disposed of. A copy of this order be sent to the Superintendent, District Jail Nahan, District Sirmaur, H.P. and the learned Trial Court by **FASTER.**

18. Petition stands disposed off in the aforesaid terms,
so also the pending miscellaneous applications, if any.

(Chirag Bhanu Singh)
Judge

05th October, 2026

(Shamsh Tabrez)

SHAMSH
TABREZ

Digitally signed
by SHAMSH
TABREZ

Date:
2026.10.05
13:28:16 +0530