IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MMO No.314 of 2026

Date of Decision: 28.04.2026

Prem Pal .....Petitioner

Versus

State of Himachal Pradesh ... Respondent

Coram:
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? [1]

For the Petitioner : Mr. Kulwant Singh Gill, 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, Judge(oral):

Being aggrieved and dissatisfied with order dated 24.12.2025, passed by learned Special Judge-1, Sirmour, District Nahan, Himachal Pradesh, whereby an application filed by the respondent-State i.e. prosecution, seeking therein permission to place on record the inventory in case FIR No.13/23, dated 09.02.2023, came to be allowed, petitioner-accused has approached this Court in the instant proceedings filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, praying therein to quash and set-aside aforesaid order.

2. Precisely, the grouse of the petitioner, as has been highlighted in the grounds of the petition and further canvassed by Mr.

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

Kulwant Singh Gill, learned counsel for the petitioner, is that Court below has fallen in grave error, while allowing the application, which admittedly has been filed after three years of filing of the charge-sheet. While referring to Section 207 of Cr.P.C, learned counsel for the petitioner submitted that only those documents, which are filed alongwith the challan, can be permitted to be relied upon, but in the instant case, attempt has been made on behalf of the prosecution to fill up the lacuna by placing on record inventory, which was never prepared. He further submitted that as of today, all the prosecution witnesses have been examined and in case, inventory is ordered to be taken on record, is not removed from the record of the case, great prejudice shall be caused to the petitioner-accused, who in that event would be precluded from putting such document to the prosecution witnesses in their cross-examination. He further submitted that at no point of time, prosecution placed on record contemporary record to prove the existence of the document and as such, it can be safely concluded that document, intended to be placed on record, was manufactured with a view to prove guilt of the accused, who has been falsely implicated.

3. To the contrary, Mr. Anish Banshtu, learned Deputy Advocate General, while supporting the impugned order, vehemently argued that inventory, which has been ordered to be placed on record vide impugned order, was already known to the accused as the same

was prepared by the Investigating Officer at the time of recovery of contraband, but since first Investigating Officer was changed and second Investigating Officer, who had received the case property alongwith the documents inadvertently failed to place the same on record. Learned Deputy Advocate General further submitted that no prejudice, if any, can be said to have been caused to the accused with the passing of the impugned order because in case, aforesaid document is permitted to be taken on record, petitioner-accused has a appropriate remedy for recalling the relevant prosecution witnesses for confronting with the document intended to be placed on record.

4. Having heard learned counsel representing the parties and perused the material available on record vis-à-vis reasoning assigned in the impugned order, this Court finds no illegality or infirmity in the same and as such, no interference is called for.

5. By now it is well settled principle of law that best available evidence should be produced before the Court, enabling it to decide the case in most impartial and fair manner. In the instant case, averments contained in the application filed at the behest of the prosecution, reveals that at first instance, investigation was conducted by SI Mahipal Singh (PW-15) and subsequently investigation was transferred to ASI Rajesh Kumar, but inadvertently second Investigating Officer failed to place on record inventory prepared at the time of his taking over the charge as Investigating Officer with the

final report submitted under Section 173 Cr.P.C. While statement of SI Mahipal Singh (PW-15) was being recorded, it transpired that inventory prepared at the time of change of investigating officer has been not placed on record. In the aforesaid background, application seeking therein permission to place on record inventory came to be filed by the prosecution.

6. Since preparation of inventory during the course of the investigation was already known to the other side, learned Court below proceeded to allow the application. Though, this Court finds that application seeking therein permission to place on record inventory came to be filed after three years of filing of the charge-sheet, but such fact, if any, may not be a ground to reject the application, especially when factum with regard to preparation of inventory at the time of change of investigating officer was not in dispute, rather same was prepared in the presence of the accused.

7. Leaving everything aside, inventory, which is the subject matter of the present case, is inventory of case property and documents, which at first instance, were taken into possession by the first Investigating Officer at the time of recovery of the contraband. Necessity of making second inventory arose in the case at hand for the purpose that investigating officer was changed and first investigating officer, while handing over the case property to the

second investigating officer, prepared the inventory, but in the presence of the accused.

8. Factum with regard to omission, if any, made by the prosecution to place on record second inventory prepared at the time of changing of Investigating Officer came to the fore at the time of examination of PW-15, ASI Mahipal Sing, who though mentioned about preparation of inventory at the time of his taking charge, but since such document was not available on record at that stage, matter was got adjourned by public prosecutor and thereafter, application seeking therein permission to place on record the inventory came to be filed.

9. Though, learned counsel representing the petitioner vehemently argued that application came to be filed just to fill up the lacuna, but this Court is not persuaded to agree with learned counsel for the petitioner for the reason that lacuna means an inherent defect in the prosecution case and not each and every error committed by the Investigating Officer. In the case at hand, inventory prepared at the time of change of investigating officer could not be placed inadvertently by second investigating officer, but rectification of such mistake, if any, cannot be said to fill up the lacuna.

10. Leaving everything aside, inventory, otherwise permitted to be placed on record by learned court below, shall be required to be proved, in accordance with law, by the prosecution and in that

scenario, accused shall also get an opportunity to cross-examine the witness, who produces such inventory in the Court at the time of his cross-examination.

11. Consequently, in view of the above, this Court finds no illegality or infirmity in the impugned order and as such, same is upheld. The present petition fails and is accordingly dismissed alongwith the pending applications, if any.

12. Since 14 prosecution witnesses stood already examined prior to passing of the impugned order, which may also include spot witnesses before whom such inventory was prepared, this Court finds force in the submission of learned counsel for the petitioner that in the event of permitting prosecution to place on record inventory prepared at the time of change of investigating officer, accused is also entitled to be afforded an opportunity to cross-examine the spot witnesses before whom, such inventory was prepared. In this regard, petitioner-accused is always at liberty to file appropriate application in appropriate Court of law seeking recall of such witnesses before whom, inventory otherwise permitted to be placed on record, was prepared.

(Sandeep Sharma),
Judge

April 28, 2026
(shankar)