IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr. MP(M) No.1745 of 2026
Decided on : 28.10.2026

Ram Chander ..Applicant

Versus

State of H.P. ..Respondent

Coram
Hon'ble Mr. Justice Virender Singh, Judge
Whether approved for reporting?

For the Applicant : Mr. Ganesh Barowalia, Advocate.

For the Respondent *:* Mr. H.S. Rawat & Mr. Mohinder Zhariack, Addl. A.Gs. With Mr. Rohit Sharma, Deputy A.G.

Virender Singh, Judge (Oral)

Applicant has filed the present application, under Section 483 of Bharatiya Nagarik Suraksha Sanhita (hereinafter referred to as 'the BNSS') for releasing him, on bail, during the pendency of the trial, arising out of **FIR No. 66 of 2025, dated 18.11.2025, registered under Sections 20 & 29 of the Narcotic Drugs and Psychotropic**

Substances Act (hereinafter referred to as the 'ND & PS' Act), with Police Station, Shillai, District Sirmour, H.P.

2. According to the applicant, he is an innocent person and has falsely been implicated, in the present case.

3. The applicant has pleaded that the investigation, in the present case, is complete, as the police has filed the charge-sheet before the competent court of law. Asserting the fact that no useful purpose would be served by keeping him in judicial custody, a prayer has been made to allow the bail application.

4. In addition to this, it has also been pleaded that as per the allegations leveled against the applicant, his involvement, in the present case, has not been proved.

5. The applicant has earlier tried his luck by moving the application, before the Court of learned Sessions Judge (II), Sirmaur District at Nahan.

However, his application has been dismissed on 06.04.2026.

6. According to the applicant, he is in judicial custody since 18.11.2025. All these facts have been pleaded to demonstrate that the chances of commencement and conclusion of the trial, against the applicant are not so bright.

7. The relief of bail has been sought on the ground of parity as, according to the applicant, his co-accused Tula Ram has been released on bail by this Court on 16.09.2026, while deciding Cr.MP(M) No.1555 of 2026, as well as, co-accused Suresh Chand has been released on bail by this Court on 31.03.2026, while allowing Cr.MP(M) No.95 of 2026.

8. Apart from this, the applicant, through his counsel, has given certain undertakings, for which, he is ready to abide by, in case, ordered to be released on bail.

9. On all these submissions, Shri Ganesh Barowalia, Advocate, has pleaded that during the

pendency of the trial, applicant may kindly be released on bail.

10. When, put to notice, the Police has filed the status report, disclosing therein, that on 18.11.2025, Constable HC Pramod No. 74 has submitted a ruqua to Police Station, Shillai, disclosing therein that on the aforesaid date, he alongwith, other police officials, was on patrolling duty, as well as, duty to detect the crime, relating to excise and narcotics. At about 2:05 a.m., one car was coming from Ronhat and moving towards Shillai. The I.O. signalled to stop the vehicle, upon which, the driver of the said car stopped the car on the wrong side of the road. Two persons were found sitting in the car. The registration of the car was found to be HP01N0502. The person, who was sitting by the side of the driver, was having a carry bag in his lap. Both the persons got perplexed, upon which, the IO inquired from the person, sitting on the conductor side about the contents of the carry bag and also

inquired from the driver as to why he has parked the car on the wrong side of the road. Both the persons could not give any satisfactory answer to the query put by the I.O., upon which, the I.O. developed a suspicion that the carry bag, held by person, sitting on the conductor seat, might be containing some objectionable item. As such, he has decided to search the car and the bag.

10.1. Since, it was odd hours of the night, as such, no person was found there, upon which, a police official, telephonically apprised the Up-Pradhan of Shiri Kiari and requested him to come present to the spot. At about 2:20 a.m., the Up-Pradhan, alongwith one another local person, namely Kali Ram came there. Both of them were associated in the investigation as independent witnesses. In the presence of independent witnesses, names and addresses of the occupants of the car were inquired. On inquiry, one person has disclosed his name as Ram Chander, whereas, the other person has

disclosed his name as Tula Ram. Thereafter, the carry bag was searched, which, on opening, was found containing a white coloured envelope, in which, stick shaped black coloured substance was found, which, on the basis of smell and experience was found to be charas. The identification memo was prepared and on weighing, the charas was found to be 1 kg. 584 grams.

10.2. Other codal formalities were completed and vehicle was taken into possession. The ruqua was prepared, on the basis of which, FIR was registered.

10.3 Both accused Tula Ram and Ram Chander (applicant) were arrested at about 7:05 a.m. on 18.11.2025. Thereafter, both the accused were medico-legally examined at CHC Shillai. On 18.11.2025, accused persons were produced before the Court of learned JMFC, Shillai, District Sirmour, HP and contraband was produced before the Court, where, inventory proceedings under Section 52(2) of the ND&PS Act were conducted. Thereafter, the

contraband was grinded, which, on weighment was found to be 1 kg 506 grams. Two samples of 40-40 grams were separated. The samples were sent for chemical analysis to SFSL, Junga.

10.4 Thereafter, authorization was obtained from the SDPO office Paonta Sahib to search the houses of accused Ram Chander (applicant) and accused Tula Ram, but nothing incriminating was found.

10.5 During investigation, applicant Ram Chander has disclosed that he had discussed about the purchase of the charas from a person, who is resident of Kupvi and consulted with his cousin Tula Ram, who drives taxi in Shimla. Thereafter, both of them had gone to Kupvi in car No. HP-01N-0502. At about 6 p.m., they reached Kupvi, where they had purchased charas from Suresh Chand for a sum of Rs. 90,000/-. The amount of Rs. 45,000/- was paid to Suresh Chand, through G-Pay. Rest of the amount was agreed to be paid after selling the

Charas. Similar version has been given by accused Tula Ram.

10.6 During police custody, applicant Ram Chander has also disclosed that he has purchased charas from Suresh Chand R/o Kupvi. Thereafter, bank record from UCO Bank, Branch Shillai was obtained. As per the bank document, on 17.11.2025, a sum of Rs. 45,000/- was transferred twice in bank account No. 17280110015216. The said account was found to be in the name of Suresh Chand. As such, upon the involvement of Suresh Chand, in the present case, Section 29 of the NDPS Act was added, in this case.

10.7 It is the further case of the Police that on 18.12.2025, the applicant was arrested and was produced before the Court of learned Judicial Magistrate First Class, Nahan, District Sirmour, H.P., from where, he was remanded to police custody. During investigation, he has disclosed to the Police that he has prepared the charas weighing 1.584 kg,

during the months of July, August and September and after selling the same, he wanted to earn the money. As such, he has negotiated with applicant Ram Chander to sell the same for a sum of Rs. 90,000/-. Consequently, he has sold the same, upon which, applicant Ram Chander had transferred a sum of Rs. 45,000/- in two different accounts, through Google Pay, and rest of amount of Rs. 45,000/- was to be paid after selling the charas.

10.8 As per the further case of the Police, CDRs of mobile phone of accused Suresh Chand and Ram Chander (applicant) were obtained and it was found that on 16/17.11.2025, they had talked to each other, on various occasions. Their tower location was also found to be at the same location. FSL report is stated to have been received.

10.9. Lastly, it has been pleaded that during financial investigation, no movable or immovable property, has been found to have been earned illegally.

10.10. After the completion of the investigation, the police has filed the charge-sheet. Highlighting the seriousness of the offence, it has been pleaded that in case, the applicant is released on bail, it would give a wrong signal to the society that after being involved, in such a heinous offence, the applicant is moving freely, in the society.

11. Highlighting the fact that the contraband has been recovered from the exclusive and conscious possession of the applicant, it has been prayed that bail application may kindly be dismissed.

12. Admittedly, the contraband, allegedly recovered, in this case, falls within the definition of 'commercial quantity. In view of the law laid down by Hon'ble Supreme Court in ***Narcotics Control Bureau versus Kashif***, ***(2024) 11 SCC 372,*** before releasing the person, involved in the crime, it is obligatory upon the Court to record the findings, which should be more than *prima-facie* findings, regarding existence of the twin conditions, as enumerated under Section 37(1)(b)(ii) of the NDPS Act.

In other words, it can be said that before releasing the person, involved in the crime in issue, findings have to be recorded by the Court, about the fact that there are reasonable grounds for believing that the accused is not guilty of such offence, and while on bail, he is not likely to commit any offence.

13. Provisions of Section 37 (1)(b)(ii) of the NDPS Act, are reproduced, as under:-

> *(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.*

14. When, I.O. inquired from the person sitting on the conductor seat, about the contents of the carry bag, which he was having in his lap, then, he could not give the satisfactory answer. Meaning thereby the contraband has been recovered from the exclusive and conscious possession of the applicant Ram Chander. As such, the principle of parity is not applicable in the in favour of the applicant.

15. A futile attempt has also been made by the learned counsel appearing for the applicant, by arguing that the I.O. has not complied with the provisions of Section 42 of the NDPS Act, as according to him, the information regarding the incident has not been given to the senior officers.

16. The said contentions is liable to be rejected, as, the present is a case of chance recovery and the Police has no prior information regarding the indulgence of the accused persons in the business of selling the contraband. The police party was conducting routine checking.

17. So far as the decision of Hon'ble Supreme Court in ***Criminal Appeal No.2319 of 2009,*** titled as ***Najmunisha versus State of Gujarat Narcotics Control Bureao, 2024 SCC Online SC 520***, and its connected matter, is concerned, the same is not applicable to the facts and circumstances of the present case. The recovery, in the case before the

Hon'ble Supreme Court, was on the basis of personal knowledge of the empowered officer, whereas, in the present case, the recovery falls within the definition of 'chance recovery'.

18. Considering the fact that the contraband was recovered from the bag, which the applicant was carrying in his lap, at this stage, it cannot be held by this Court that the applicant is not guilty of such offense and while on bail he is not likely to commit any offense.

19. Considering all these facts, the present application is dismissed.

20. Any of the observations, made herein above, shall not be taken, as an expression of opinion, on the merits of the case, as these observations are confined, only to the disposal of the present bail application.

(Virender Singh)
Judge

28th October, 2026 *(ps)*