2026:HHC:49093

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.MP (M) No. 1519 of 2026
Decided on : 04.11.2026

Dimpi Dhadwal ...Applicant

Versus

State of Himachal Pradesh ...Respondent

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?[1]

For the applicant : Mr. Sanjeev K. Suri, Advocate.

For the respondent : Mr. Mohinder Zharaick, Additional Advocate General, assisted by HC Sudesh Kumar No.79, I.O., Police Station, Palampur.

Virender Singh, Judge

Applicant-Dimpi Dhadwal, has filed the present application, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the 'BNSS'), with a prayer to release him on bail, during the pendency of trial, in case **FIR No.46 of 2024, dated 04.04.2024, registered, under Sections 20, 25 and 29 of the Narcotic Drugs & Psychotropic Substances Act**

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

(hereinafter referred to as the 'NDPS Act'), with Police Station Palampur, District Kangra, H.P.

2. According to the applicant, he is innocent and has no concern with the alleged crime and has falsely been implicated, in the present case.

3. As per the applicant, the investigation, in the present case, is complete and the police has filed the challan in the competent Court of law. As such, no useful purpose would be served by keeping the applicant in the judicial custody.

4. It is the further case of the applicant that he is in custody since 4.4.2024 and the custody for indefinite period, without conviction, amounts to violation of Article 21 of the Constitution of India.

5. All these facts have been highlighted to show that the custodial interrogation of the applicant is no longer required by the Police, in this case.

6. Learned counsel for the applicant has also submitted that the applicant is also entitled to the relief of bail, on the ground of parity, as, his co-accused Harshit

Sharma, has already been released, on bail, by this Court, on 28.07.2026, while deciding Cr.MP(M) No.1212 of 2026.

7. The applicant has also tried his luck by moving similar application, before learned Special Judge-III, Kangra at Dharamshala, however, his application was dismissed, vide order, dated 19th March, 2026. Thereafter, the applicant has filed Cr.MP(M) No.534 of 2026, which was dismissed as withdrawn.

8. Apart from this, the applicant has given certain undertakings, for which, he is ready to abide by, in case, ordered to be released on bail, during the pendency of the trial.

9. On the basis of the above facts, Mr. Sanjeev K. Suri, Advocate, appearing for the applicant, has argued that the applicant is entitled to the relief, as claimed, in the application.

10. On the basis of the above facts, a prayer has been made to allow the application.

11. When put to notice, the police has filed the status report disclosing therein, that on 03.04.2024, at about 10.15 p.m., HC Sudesh Kumar No.79, along with

other police officials, was on patrolling duty to detect the crime relating to excise and Narcotic drugs and was present at a place known as Upper Daad, at Chamunda Palampur road. In the meanwhile, they noticed a white coloured Alto Car bearing registration No.HP01D-8247, being driven by its driver, coming from Chamunda side.

11.1. The driver of the said car, on noticing the vehicle of the police, at once, turned his vehicle on the link road. Since, the link road was not so wide, as such, he could drive the same only upto 20 meters.

11.2. The activities of the driver raised suspicion in the mind of the I.O., that he might be having stolen articles in his vehicle, upon which, the I.O. and other police officials reached at the place, where, the vehicle was stopped by its driver.

11.3. Since, the I.O., intended to search the vehicle, on the suspicion that some stolen articles might be there, as such, he has associated two independent witnesses passing through there; namely Kalyan Chand and Sunny Kumar, after apprising them about the factual position.

11.4. Thereafter, the person, who was on the wheel, was inquired, who on inquiry disclosed his name as Harshit Sharma and the person sitting on the front seat disclosed his name as Dimpi Dadhwal (applicant). Both the persons were directed to remain sitted in the vehicle with a direction to switch on the cabin light.

11.5. When, the light was switched on, then the I.O. noticed a small bag, lying near the feet of Dimpi Dadhwal (applicant), which, on opening, was found to be containing Charas and on weighment, it was found to be 1 kilogram 30 grams.

11.6. Consequently, the said contraband was taken into possession and rukka was sent to the Police Station for registration of the FIR. Accused were arrested.

11.7. After completion of the codal formalities, the contraband, so recovered, was sent to SFSL Junga, for analysis.

12. During investigation, accused Dimpi Dadhwal (applicant) has disclosed that he is addict of Charas. He has purchased the Charas from a person of Chintpurni and he has to sell the same, in order to repay his bank

loan. He has hired the taxi for Palampur, in order to sell the same and for that purpose accused Harshit Sharma came with him.

13. After, receiving positive report from the SFSL, Junga, the police has filed the final report against the accused, before the Court of learned Sessions Judge, Kangra at Dharamshala, which at the evidence stage and out of 17 witnesses statements of 7 witnesses have been recorded. Now, the case is listed for recording the statements of prosecution witnesses on 15.01.2027 and 16.01.2027.

14. On the basis of the above facts, a prayer has been made to dismiss the application.

15. The applicant, in the present case, has been arrested under the provisions of NDPS Act. The legislature, in its wisdom, has enacted this statute to curb the menace of drug abuse with stringent punishment.

16. Certain conditions are there, in the NDPS Act, in the shape of Section 37 of NDPS Act, which are, in addition to the conditions, as contained in Section 483 BNSS. Before releasing a person on bail, those conditions,

as enumerated under Section 37 of the NDPS Act, are to be fulfilled, if the accused has been arrested for the offence, involving commercial quantity of contraband.

17. Once, it has been held that the contraband allegedly recovered from the possession of the accused falls in the category of 'commercial quantity', as per the notification issued by the Central Government, then, the rigors of Section 37 of the NDPS Act come into play.

18. In a recent decision, in case, titled as ***Narcotics Control Bureau*** *versus* ***Mohit Aggarwal,*** reported in ***AIR 2022 SC 3444,*** the Hon'ble Supreme Court has reiterated the earlier view regarding compliance of the conditions, as enumerated in Section 37 of the NDPS Act. The relevant paras 10 to 15 of the judgment are reproduced, as under:

> *"10. The provisions of Section 37 of the NDPS Act read as follows:*
>
> *"[37. **Offences to be cognizable and non-bailable.**–(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)-*
>
> *(a) every offence punishable under this Act shall be cognizable;*
>
> *(b) no person accused of an offence punishable for [offences under section 19 or*

section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless-

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(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.

(2) The limitations on granting of bail specified in clause (b) of sub section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.

11. It is evident from a plain reading of the non-obstante clause inserted in sub-section (1) and the conditions imposed in sub-section (2) of Section 37 that there are certain restrictions placed on the power of the Court when granting bail to a person accused of having committed an offence under the NDPS Act. Not only are the limitations imposed under Section 439 of the Code of Criminal Procedure, 1973 to be kept in mind, the restrictions placed under clause (b) of sub-section (1) of Section 37 are also to be factored in. The conditions imposed in sub-section (1) of Section 37 is that (i) the Public Prosecutor ought to be given an opportunity to oppose the application moved by an accused person for release and (ii) if such an application is opposed, then the Court must be satisfied that there are reasonable grounds for believing that the person accused is not guilty of such an offence. Additionally, the Court must be satisfied that the accused person is unlikely to commit any offence while on bail.

12. The expression "reasonable grounds" has come up for discussion in several rulings of this

Court. In "Collector of Customs, New Delhi v. Ahmadalieva Nodira", (2004) 3 SCC 549, a decision rendered by a Three Judges Bench of this Court, it has been held thus:-

> *"7. The limitations on granting of bail come in only when the question of granting bail arises on merits. Apart from the grant of opportunity to the Public Prosecutor, the other twin conditions which really have relevance so far as the present accused respondent is concerned, are: the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. The conditions are cumulative and not alternative. The satisfaction contemplated regarding the accused being not guilty has to be based on reasonable grounds.* ***The expression "reasonable grounds" means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence."*** *[emphasis added]*

13. The expression "reasonable ground" came up for discussion in "State of Kerala and others Vs. Rajesh and others" (2020) 12 SCC 122 and this Court has observed as below:

> *"20. The expression "reasonable grounds" means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence.* ***The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in***

themselves to justify satisfaction that the accused is not guilty of the alleged offence. *In the case on hand, the High Court seems to have completely overlooked the underlying object of Section 37 that in addition to the limitations provided under the CrPC, or any other law for the time being in force, regulating the grant of bail, its liberal approach in the matter of bail under the NDPS Act is indeed uncalled for." [emphasis added]*

14. To sum up, the expression "reasonable grounds" used in clause (b) of Sub-Section (1) of Section 37 would mean credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Dove-tailed with the aforesaid satisfaction is an additional consideration that the accused person is unlikely to commit any offence while on bail.

15. We may clarify that at the stage of examining an application for bail in the context of the Section 37 of the Act, the Court is not required to record a finding that the accused person is not guilty. The Court is also not expected to weigh the evidence for arriving at a finding as to whether the accused has committed an offence under the NDPS Act or not. The entire exercise that the Court is expected to undertake at this stage is for the limited purpose of releasing him on bail. Thus, the focus is on the availability of reasonable grounds for believing that the accused is not guilty of the offences that he has been charged with and he is unlikely to commit an offence under the Act while on bail."

19. The Hon'ble Supreme Court in ***'Narcotics Control Bureau versus Kashif', (2024) 11 SCC 372***, has again reiterated the law, as enumerated by it, in ***Mohit Aggarwal***'s case (supra). The Hon'ble Supreme Court, in this case, has held that the provisions of Section 37 of NDPS Act are mandatory in nature. Relevant paragraphs 8 and 39 of the said judgment are reproduced, as under:

> *"8. There has been consistent and persistent view of this Court that in the NDPS cases, where the offence is punishable with minimum sentence of ten years, the accused shall generally be not released on bail. Negation of bail is the rule and its grant is an exception. While considering the application for bail, the court has to bear in mind the provisions of Section 37 of the NDPS Act, which are mandatory in nature. The recording of finding as mandated in Section 37 is a sine qua non for granting bail to the accused involved in the offences under the said Act. Apart from the granting opportunity of hearing to the Public Prosecutor, the other two conditions i.e., (i) the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that (ii) he is not likely to commit any offence while on bail, are the cumulative and not alternative conditions.*
>
> *xxx xxx xxx*
>
> *39. The upshot of the above discussion may be summarized as under:*
>
> *(i) The provisions of NDPS Act are required to be interpreted keeping in mind the scheme, object and purpose of the Act; as also the impact on the society as a whole. It has to be interpreted literally and not liberally, which may ultimately frustrate the object, purpose and Preamble of the Act.*

(ii) While considering the application for bail, the Court must bear in mind the provisions of Section 37 of the NDPS Act which are mandatory in nature. Recording of findings as mandated in Section 37 is sine qua non is known for granting bail to the accused involved in the offences under the NDPS Act.

(iii) The purpose of insertion of Section 52A laying down the procedure for disposal of seized Narcotic Drugs and Psychotropic Substances, was to ensure the early disposal of the seized contraband drugs and substances. It was inserted in 1989 as one of the measures to implement and to give effect to the International Conventions on the Narcotic drugs and psychotropic substances.

(iv) Sub-section (2) of Section 52A lays down the procedure as contemplated in sub-section (1) thereof, and any lapse or delayed compliance thereof would be merely a procedural irregularity which would neither entitle the accused to be released on bail nor would vitiate the trial on that ground alone.

(v) Any procedural irregularity or illegality found to have been committed in conducting the search and seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible. The Court would have to consider all the circumstances and find out whether any serious prejudice has been caused to the accused.

(vi) Any lapse or delay in compliance of Section 52A by itself would neither vitiate the trial nor would entitle the accused to be released on bail. The Court will have to consider other circumstances and the other primary evidence collected during the course of investigation, as also the statutory presumption permissible under Section 54 of the NDPS Act."

(self-emphasis supplied)

20. So far as the other ground, upon which the relief of bail, i.e., parity, has been sought, is concerned, in order to get the benefit on the principle of parity, the applicant has to demonstrate that the role attributed to him is the same, which has been alleged against his co-accused, who has been released on bail.

21. As per the case of the prosecution, when, the police intercepted the vehicle driven by co-accused Harshit Sharma, the applicant was also travelling in the said vehicle and the contraband weighing 1 kilogram 30 grams, was found kept near the feet of the applicant, in the vehicle. As such, the role alleged against the applicant is altogether different from the role alleged against his co-accused, who has been released on bail, by this Court.

22. Considering all these facts, it is very difficult for this Court to record the findings, at this stage, that there are reasonable grounds for believing that the applicant is not guilty of such offence and in case, he is ordered to be released, on bail, he is not likely to commit any offence. Consequently, the bail application is dismissed.

23. 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

November 04, 2026*(ps)*