 2026:HHC:48514

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No. : 1624 of 2026
Reserved on : 02.11.2026
Decided on : 03.11.2026
Uploaded on : 03.11.2026

Naresh Kumar ...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. Sangram Singh Chandel, Advocate.

For the respondent : Mr. Mohinder Zharaick, Additional Advocate General.

Virender Singh, Judge

Applicant-Naresh Kumar has filed the present application, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), for releasing him on bail, during the pendency of the trial, arising out of **FIR No.279 of 2024, dated 29.09.2024,** registered **under Sections 15 and 29-61-**

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

85 of the Narcotic Drugs & Psychotropic Substances Act (hereinafter referred to as the 'NDPS Act'), with **Police Station, Nalagarh, District Solan, H.P.**

2. According to the applicant, he is innocent person and has falsely been implicated, in this case, whereas, he has no concern with the crime in question.

3. The applicant has further pleaded that except the present case, no other case has been registered against him and he is no longer required by the police, for the investigation, of the case.

4. The applicant had earlier tried his luck by moving Cr. MP(M) No. 69 of 2025, before this Court, which was withdrawn on 24.02.2025. Thereafter, he has again filed Cr. MP(M) No. 1474 of 2025 before this Court, which was again dismissed as withdrawn on 04.07.2025. The applicant has again moved Cr. MP(M) No. 2527 of 2025, which was dismissed as withdrawn on 17.10.2025. Thereafter, he has tired his luck before the learned Special Judge-III Solan, District Solan, H.P. However, the said application was dismissed, vide order dated

30.10.2025. Thereafter, he again filed Cr.MP(M) No. 2631 of 2025 before this Court, and the same was dismissed on 28.11.2025. Thereafter, he has tired his luck before the learned Special Judge-III Solan, District Solan, H.P. However, the said application was dismissed, vide order dated 19.02.2026. Thereafter, he again filed Cr.MP(M) No. 642 of 2026 before this Court, and the same was dismissed on 15.05.2026.

5. It has been argued by learned Counsel appearing for the applicant that his co-accused Dharam Pal, has been released on bail by this Court in Cr.MP(M) No.2456 of 2025. As such, on the ground of parity, relief of bail has also been sought.

6. Apart from this, Mr. Sangram Singh Chandel, Advocate, appearing for the applicant, has given certain undertakings, on behalf of the applicant, for which, the applicant is ready to abide by, in case, ordered to be released on bail, during the pendency of the trial.

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

8. When, put to notice, the police has filed the status report, disclosing therein, that on 29.09.2024, ASI Ranjeet Singh, along with the other police officials, in private Vehicle No.HP20E-7521 and HP12J-6915, was on patrolling duty and duty to detect the crime relating to excise and narcotics, in the territorial jurisdiction of Police Station, Nalagarh. When they were present near playground, in village Tirla, then, at about 1:00 PM, he received a secret information, about the indulgence of Naresh Kumar, resident of Mahua, Tehsil Nalagarh, District Solan, H.P. (applicant), in the illegal business of selling poppy husk. As per the information, Naresh Kumar (applicant) is selling poppy husk to customers at his residence and has concealed the poppy husk in his residential house, as well as, in his Cowshed.

8.1. As per the information, in case, said Naresh Kumar (applicant) is nabbed and his house and cowshed are searched, then, large quantity of poppy husk could be recovered. According to the IO, if, he would have obtained the search warrants, then, delay could have

occurred and in that eventuality, there were chances of removal of contraband from there.

8.2. As the information was found authentic and reliable, a report under Section 42(2) of NDPS Act, was prepared and submitted to SDPO Nalagarh. Thereafter, they proceeded towards the spot and when, they reached outside village Mahua, Sanjay Kumar son of Kamal Nayan met him, who was apprised about the factual position and was associated in the raiding party, as independent witness. Thereafter, the I.O. along with Sanjay Kumar, reached the residential house of Naresh Kumar (applicant), where a person was found present, to whom IO gave his identification, as well as, identification of the raiding party.

8.3. On inquiry, the said person disclosed his name as Naresh Kumar son of Amar Chand (applicant). Thereafter, his house was searched. During search, 60.983 kg poppy husk was recovered.

8.4. After completing other formalities, rukka was prepared and submitted to Police Station, upon which,

FIR, was registered and said Naresh Kumar (applicant) was arrested. Thereafter, the case property was produced before the Court for conducting the inventory proceedings, under Section 52A of ND&PS Act. Subsequently, sample was sent to SFSL, Junga.

8.5. Accused Naresh Kumar (applicant) was produced before the Court, from where, he was remanded to police custody. During the police custody, he has disclosed that one Dharam Pal, son of Prem Lal, resident of village Chori, Post Office Saur, Tehsil Ramshehar, District Solan, is his partner in the crime in question, as, they used to purchase contraband from the adjoining State and thereafter, sell the same.

8.6. Thereafter, the CDRs of mobile phone of applicant Naresh Kumar, bearing No.98165-09228 and 70188-81990 were obtained. The perusal of the same shows that accused Naresh Kumar (applicant) used to have long conversation with Dharam Pal.

8.7. On 06.10.2024, ASI Narayan Dev, searched for accused Dharam Pal. He was found in his village and

thereafter, his residential house was searched. During search of his residential house, poppy husk, weighing 436 grams, was recovered, upon which, FIR No.48 of 2024, was registered, with Police Station, Ramshehar.

8.8. On the basis of the investigation, spot visit, statements of the witnesses, revelation made by accused Naresh Kumar (applicant) and as per the recovery of poppy husk, from accused Dharam Pal, he was arrested on 06.10.2024 under Sections 15, 29 of ND&PS Act. Thereafter, he was remanded to police custody, but, even during police custody, he has not disclosed about the source.

8.9. After complying with the provisions of Section 52(A) of the ND&PS Act, the sample was sent to SFSL, Junga, from where, positive report has been received.

8.10. It is the further case of the police that one case was found to be registered against the applicant:-

> *(i) FIR No. 144 of 2010, dated 14.10.2010, registered under Sections 147, 149, 323 IPC, with Police Station Nalagarh, in which he has been acquitted by learned ACJM Nalagarh, on 31.05.2018.*

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

10. 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.

11. 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.

12. 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.*

13. As per the status report, the residential house and the cow shed, from where, the alleged contraband was recovered, was got demarcated and as per the demarcation report, Khasra No.95, where the residential house is stated to be constructed, was found in the name of the father of the applicant and the area underneath the cow shed bearing Khasra No.102, is also in possession of the father of the applicant.

14. Meaning thereby, at this stage, there is no evidence to demonstrate that the said house/cow shed, was in the exclusive possession of the applicant. Hence, it can be said that, there are reasonable grounds to believe that the applicant is not guilty of such offence and it can be said, at this stage, that in case, he is ordered to be released on bail, he is not likely to commit any offence.

15. Even otherwise, for the second condition, as enumerated under the provisions of Section 37(1)(b)(ii) of the NDPS Act that the applicant is not likely to commit any

offence, while on bail, reasonable conditions, can be imposed upon him. Consequently, the twin conditions, are found to be existing in favour of the applicant.

16. Considering all these facts, this Court has no legal hesitation 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.

17. Even otherwise, on the ground of parity, the applicant is entitled to the relief, as claimed in the application, as his co-accused Dharam Pal, has already been released on bail, by this Court, vide order dated 17.11.2025, passed in Cr.MP(M) No. 2456 of 2025, titled as 'Dharam Pal versus State of Himachal Pradesh'.

18. So far as the criminal history of the applicant is concerned, admittedly, in the said case, the applicant has been acquitted by the learned ACJM, Nalagarh, vide order dated 31.05.2018.

19. Considering all these facts, this Court is of the view that the bail application is liable to be allowed and is accordingly allowed.

20. Consequently, the applicant is ordered to be released on bail in case **FIR No.279 of 2024, dated 29.09.2024,** registered **under Sections 15 and 29-61-85 of the NDPS Act**, with **Police Station, Nalagarh, District Solan, H.P.**, on his furnishing personal bond in the sum of Rs.1,00,000/-, with two sureties, in the like amount, to the satisfaction of learned trial Court.

21. This order, however, shall be subject to the following conditions:-

> *a) Applicant shall 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) Applicant shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;*
>
> *c) Applicant shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or the Police Officer, and*
>
> *d) Applicant shall not leave the territory of India without the prior permission of the Court.*

e) The applicant shall furnish affidavit, in the first week of every month, before the learned trial Court, disclosing therein that he has not been named, as accused, in any crime, during that period.

22. 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 application.

23. It is made clear that the respondent-State is at liberty to move an appropriate application, in case, any of the bail conditions is found to be violated by the applicant.

24. The Registry is directed to forward a soft copy of the bail order to the Superintendent Jail, District Jail, Solan, District Solan, through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

25. In case, the applicant is not released within a period of seven days from the date of grant of bail, the Superintendent Jail, District Jail, Solan, District Solan, is directed to inform this fact to the Secretary, DLSA, Solan. The Superintendent Jail, District Jail, Solan, District Solan, is further directed that if the applicants fail to furnish the bail bonds, as per the order passed by this

Court within a period of one month from today, then, the said fact be submitted to this Court.

(Virender Singh)
Judge

November 03, 2026 *(ps)*

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