IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Cr.MP(M) No.1656 of 2026
Reserved on: 23.11.2026
Decided on : 25.11.2026
Uploaded on :- 25.11.2026

Hari Ram ...Petitioner

Versus

State of H.P. .....Respondent

Coram:

The Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.

Whether approved for reporting?[1]

For the Petitioner : Mr. Sunil Kumar Banyal, Advocate.

For the Respondent : Mr. Rajpal Thakur, Additional Advocate General and Mr. Kaushal Mungta, Deputy Advocate General, assisted by HHC Yami Chand No.269, Police Station Karsog, District Mandi, H.P.

Chirag Bhanu Singh, Judge

The petitioner has preferred a petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (in short "BNSS") seeking post-arrest bail in Case FIR No.61 of 2026, dated 09.07.2026, registered at Police Station Karsog, District Una, H.P., under Sections 20 & 29 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as "the NDPS Act").

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

2. The facts which emerge from the status report, so filed by the State is that on 08.07.2026, SHO Inspector Som Dutt had setup a Nakka on Dehar curve near Pajetri. At about 9:30 PM, one white coloured car had come from Churag side, bearing Registration No.CH01AK-4503. Three persons were found sitting in the car. The driver of the car had disclosed his name as Naresh Kumar. While the person sitting on the co-driver's seat had disclosed his name as Puneet and the person sitting on the rear had disclosed his name as Padam Singh.

3. All the three looked scared and nervous. Suspicion having arisen, the SHO thought it convenient to search the vehicle, he immediately call the Up Pradhan of Gram Panchayat Khil on his mobile bearing No.94181-47500. He had been asked to reach the spot along with some other person, to be associated as independent witnesses. After some time the Up Pradhan Puran Chand along with one Vijay Kumar had reached the spot. They were apprised about the situation and associated as independent witnessess.

4. In their presence, the SHO had effected the search of the vehicle. During the course of search, the SHO had found one yellow carry bag lying behind the seat of the driver with

the words Diamond in scribed on it. On opening the yellow carry bag, three transparent polythene packets were found. On opening the same, charas in the shape of sticks were found. On weighing three packets along with carry bag, the contraband was found to be 1.990 kilograms. Without the polythene and the carry bag, it was found to weigh 1.875 kilograms.

5. After following the codal formalities, the Investigating Officer had taken the contraband into possession. All the three aforesaid accuseds came to be arrested on the spot.

6. During the course of investigation, on 11.07.2026 co-accused Naresh Kumar had made a disclosure that on the asking of one Roshan Lal son of Shri Mani Ram, resident of village Chalwag P/o Kingal Behali Tehsil Neri District Mandi, H.P., he had procured the said contraband from Hari Ram (present petitioner) S/o Shri Dhanu Ram R/o village and VPO Chiuni, Tehsil Thunag, District Mandi, H.P. on 08.07.2026. All the three were on their way to deliver the same to Roshan Lal. The petitioner eventually, came to be arrested on 14.07.2026 and he is presently in judicial custody.

7. The present petitioner is alleged to have sold the contraband for a sum of Rs.12,700/- and in pursuance to a disclosure made by the petitioner an amount of Rs.10,000/- is also alleged to have been recovered from his house.

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

9. Learned counsel appearing for the petitioner has vehemently urged that the petitioner has been falsely implicated and nothing had been recovered from his conscious possession. He has been implicated in the FIR merely on the basis of a statement made by the co-accused, under Section 23(2) of BSA, 2023, which is not admissible in law. There is even no material on record to show any financial dealings between the petitioner and the co-accused. No other case under the NDPS Act has been registered against the petitioner ever.

10. Per contra, Mr. Rajpal Thakur, the learned Additional Advocate General has contended that though the investigations are complete, but keeping in view the gravity of offence alleged to have been committed, he does not deserves any leniency. The petitioner seems to be a peddler, who had

actually supplied the contraband to the co-accused. There is a likelihood of the petitioner indulging in similar activities again.

11. Having heard the respective contention of the learned counsel appearing for the parties and after having gone through the records, it emerges that the quantity of the contraband undoubtedly recovered is commercial in nature and as such the rigorous of Section 37 will apply with full force. However, admittedly the contraband has come to be recovered from the conscious possession of three other co-accuseds namely Naresh Kumar, Puneet and Padam Singh. The three had only come to be arrested on the spot along with the contraband.

12. Moreover, the petitioner admittedly was arrested on the basis of a disclosure made by the co-accused, under Section 23(2) of the NDPS Act.

13. It is now by fairly well settled that the admission by the co-accused is not admissible in evidence.

14. The Hon'ble Supreme Court of India in **Toofan Singh vs. State of Tamil Nadu 2021 (4) SCC** 1, has categorically held that a disclosure statement, if any, made under Section 67 of the NDPS Act, is inadmissible and same

cannot be used as a confessional statement in the trial of an offence. In another subsequent judgments passed by the Hon'ble Supreme Court in case titled as **State By (NCB) Banguluru vs. Pallulabid Ahmad Arimutta and Anr. [SLP (Crl.) No.242 of 2022, decided on 10.01.2022]** it has not only been reiterated but it has been further held that the CDR bank details, if collected in pursuance to the disclosure can also be examined only at the stage of trial.

15. It is by now otherwise trite that one is deemed to be innocent, till the time, he/she is proved guilty in accordance with law. The learned counsel appearing for the petitioner has further brought to the notice of this Court that the accused/petitioner has no past criminal antecedents. He has never been involved in any ND&PS case even earlier. Even otherwise, except for a recovery of Rs.10,000/- purportedly, on the basis of a disclosure made by the accused himself, there is no material on record to connect the petitioner with the co-accuseds.

16. Admittedly, the contraband was not recovered from the conscious possession of the petitioner. The trial of the case is likely to take time. The freedom of the petitioner cannot be

curtailed for an indefinite period, especially when his guilt is yet to be proved. The pre-trial incarceration is otherwise 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).**

17. "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 also categorically held in **Dataram Singh v. State of Uttar Pradesh, [(2018) 3 SCC 22 : AIR 2018 SC 980].**

18. 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.

19. As a sequel, while allowing the present petition, it is directed that in case the petitioner is, henceforth, found to be indulging in any similar activity and an FIR is registered against him under the provisions of the Act, not only the present bail granted shall stand forfeited.

20. 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) If the bail petitioner is found to be indulging in similar cases in the future and an FIR is registered against him under the NDPS Act, his bail shall be liable to be cancelled forthwith.

21. 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.

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

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

(Chirag Bhanu Singh)
Judge

25th November, 2026
(subhash sharma)

SUBHASH SHARMA

Digitally signed by SUBHASH SHARMA
Date: 2026.11.25 15:37:48 +0000