IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr. MP(M) No.1688 of 2026
Reserved on: 27.10.2026
Decided on: 28.10.2026
Uploaded on: 28.10.2026

Vansh Kumar

... Applicant

Versus

State of H.P.

...Respondent

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

For the Applicant : Mr. K.S. Gill, Advocate.

For the Respondent *:* Mr. H.S. Rawat, Additional Advocates General with Mr. Rohit Sharma, Deputy Advocate General.

Virender Singh, Judge

Applicant Vansh Kumar has filed the present application, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'the B.N.S.S.') in case **FIR No. 199 of 2024, dated 8.12.2024, under Sections 22 and**

29 of the Narcotric Drugs & Psychotropic Substances Act (hereinafter referred to as 'the NDPS") registered with Police Station, Majra, 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 investigation in the present case is stated to be completed and according to the applicant, no useful purpose would be served by keeping him in the judicial custody, for indefinite period.

4. In addition to this, it has also been argued on behalf of applicant that despite custody of more than two years and six month, prosecution could not conclude the trial, against the applicant.

5. The applicant has given certain undertakings, for which, he is ready to abide by, in case, ordered to be released on bail.

6. The applicant has filed earlier bail application before the court of learned Special Judge-I, Nahan, District Sirmaur, H.P., however, the same was dismissed, on 15.3.2025. Thereafter, he has filed Cr. M.P.(M) No. 2387 of 2025, which has been dismissed as withdrawn, before this Court, on 28.10.2025. Thereafter, another Cr.M.P. (M) No. 617 of 2026 has been filed, which was also dismissed as withdrawn, on 24.4.2026.

7. On the basis of the averments, as made in the application, Mr. K.S. Gill, 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.

8. When, put to notice, the police has filed the status report, disclosing therein that on 8.12.2024 HC Rakesh Kumar No. 224, I.O., SIU, Nahan submitted a ruqua, disclosing therein that on

7.12.2024, he, alongwith other police officials, has left the office, in vehicle No. HP-18A- 6236 for patrolling duty and to collect the information regarding the excise and NDPS Act cases, towards Majra, Dhaula Kuan, Paonta Sahib and Haripur Kolar forest barrier.

8.1 At about 10:00 P.M., when, they were present at Haripur Kolar forest barrier, then, the I.O. received a secret information, disclosing therein that one Jai Kumar, who is wearing a white, black and red colored hoodie and black colored lower, is having a black colored rucksack on his back and along with him, Vansh Kumar (applicant) who is wearing a gray colored jacket and blue colored jeans, both residents of Yamuna Nagar, are doing the business of selling intoxicated capsules and both of them are coming on foot, towards Haripur Kolar barrier to supply the contraband, in Himachal Pradesh.

8.2 As per the information, if the said rucksack is searched, then, large quantity of contraband, could be recovered. The said information was found to be authentic and reliable. The I.O. thought that in case, he will obtain the search warrant or authorization, in that eventuality, contraband could be removed from there. As such, he has prepared the information, under Section 42 of NDPS Act and submitted the same to SDPO, Paonta Sahib. Thereafter, the I.O., at about 1:30 P.M. noticed a person, who, on inquiry, disclosed his name as Ranbir Singh, son of Kashmir Singh. He was apprised about the secret information and was requested to be witness in the raiding party.

8.3 After associating him, when the police party reached near Mehta Wala Bridge at about 10:55 PM, then, they noticed two persons sitting on the parapet, on the right side of the bridge. Both

the aforesaid persons were nabbed,with the help of the police officials, along with the rucksack.

8.4 Thereafter, HC Vishal No. 283 was directed to videograph the proceedings, under the provisions of Section 105 of BNSS. Thereafter, the I.O. inquired about the name and addresses of those persons.

8.5 On inquiry, one person disclosed his name as Jai Kumar, son of Satpal, R/o Vill. Raiwala, P.O. Bambaipur, Tehsil Yamuna Nagar, aged about 28 years, and the other person disclosed his name as Vansh Kumar, son of Satpal, resident of village Mangalore, P.O., Mangalore, Tehsil, Bilaspur, District Yamuna Nagar, (applicant), aged about 19 years.

8.6 Thereafter, the I.O. apprised the above two persons about the secret information and thereafter the rucksack, which was on the back of Jai Kumar, was searched, after giving the personal search of

the raiding party. On opening the said rucksack, total 960 capsules were found.

8.7 Other codal formalities were completed and after registration of FIR, both the accused persons were arrested. After completion of the investigation, police filed chargesheet, as the positive report has been received from SFSL, Junga. The total weight of contraband was found to be 425.280 grams, which, as per the report of the SFSL Junga, was a sample of Tremadol capsules. The chargesheet has been filed, before the competent Court of law. Charges have been framed against the accused persons.

8.8 Out of 27 witnesses, 15 have been examined and the case is now fixed for 23.12.2026 and 24.12.2026 for recording the statements of PWs at serial Nos. 1 to 3 and 5, 6, & 7, respectively.

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

9. The contraband, allegedly recovered in the present case, falls within the definition of 'commercial quantity'. In such situation, before releasing the applicant on bail, who, as per the police case, has been found to be involved in the commercial quantity, it is incumbent upon this Court to record the findings, as per the provisions of Section 37(1)(b)(ii) of the NDPS Act, which would be more than a prima facie findings, by recording the finding that the Court is satisfied that there are reasonable grounds for believing that the applicant is not guilty of such offence and that while on bail, he is not likely to commit any offence.

10. As per the case, set up by the police, in the secret information, information regarding the alleged involvement of Jai Kumar and Vansh Kumar has been disclosed to the I.O. However, applicant Vansh Kumar has been arrested, for the offence, under Section 29 of the NDPS Act, as he

was found along with accused Jai Kumar, who was carrying rucksack, in which, the police, on search, found the contraband, which was found to be commercial quantity.

11. Admittedly, the rucksack was on the back of Jai Kumar and no contraband has been recovered from the possession of Vansh Kumar. So far as his involvement is concerned, he was nabbed mainly on the ground that he was along with accused Jai Kumar and prior to that, they were in touch with each other, on mobile phone. In this regard, the police has relied upon the CDRs and tower location.

12. Hon'ble Supreme Court in **State by (NCB) Bengaluru versus Pallulabid Ahmad Arimutta & Anr.**, reported in 2022 (2) SCALE 14 has held that evidentiary value of the CDRs is to be determined, during trial. Relevant portion of the judgment is reproduced as under:

> *"10. It has been held in clear terms in Tofan Singh Vs. State of Tamil Nadu , that a confessional statement recorded under Section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. In the teeth of the aforesaid decision, the arrests made by the petitioner-NCB, on the basis of the confession/voluntary statements of the respondents or the co-accused 6 (2021) 4 SCC 1 Page 9 of 12 2022 Live Law (SC) 63 Petition for Special Leave to Appeal (Criminal) No. 1569 OF 2021 under Section 67 of the NDPS Act, cannot form the basis for overturning the impugned orders releasing them on bail. The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders dated 16th September, 2019, 14th January, 2020, 16th January, 2020, 19th December, 2019 and 20th January, 2020 passed in SLP (Crl.) No@ Diary No. 22702/2020, SLP (Crl.) No. 1454/2021, SLP (Crl.) No. 1465/2021, SLP (Crl.) No. 1773-74/2021 and SLP (Crl.) No. 2080/2021 respectively. The impugned orders are, accordingly, upheld and the Special Leave Petitions filed by the petitioner-NCB seeking cancellation of bail granted to the respective respondents, are dismissed as meritless."*
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> *(self emphasis supplied)*

13. The CDRs can only provide information like Caller ID duration and Cell Tower Details, however, they do not capture the substance of the conversation itself. These are the call record details, which are the metadata (data about data) about the call and the same is totally different from

call recording, which offers direct evidence of the communication, including specific words spoken and context of the conversation, which can be crucial, for deciding the matter.

14. Moreover, Honorable Supreme Court in a case titled as, **Nadeem Ahamed versus State of Bengal**, 2025 INSC 993, has elaborately discussed the similar situation and held that if two persons are nabbed together, it may give rise to suspicion, but according to Hon'ble Supreme Court, suspicion cannot take place of proof. Relevant paragraphs 22 and 23 of the judgment are reduced, as under:

> *22. Merely because the two accused, walking side-by-side, were apprehended simultaneously, and both were carrying narcotic drug concealed on their body, the said coincidental happening, by itself, would not give rise to an inference that either of them had the knowledge about the contraband being carried by the other. These facts may give rise to a suspicion, but suspicion, however, cannot take place of proof.*
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> *23. If at all the prosecution intended to bring home the charge of conspiracy, and club the contraband*

recovered from both the accused persons together, SLP (Crl.) No (s). 9446-9447 of 2025 then positive proof to support the charge of conspiracy had to be presented. Such proof could not be substituted with mere inferences or conjectures. Positive and tangible evidence was necessary to establish, beyond reasonable doubt, that both accused persons had prior knowledge of the contraband in the other's possession. However, upon carefully analysing the evidence available on record, we find that, apart from the bald allegation that both the accused were seen walking together and were searched one after the other, not even a semblance of evidence was led by the prosecution, which can substantiate the charge of prior conspiracy between the two accused persons."

15. In view of above, at this stage, this court has no hesitation to record that applicant Vansh Kumar is not guilty of such offence and while on bail, he is not likely to commit any offence. So far as condition No. 2 of Section 37 of the NDPS Act is concerned, for that, stringent conditions can be imposed, upon the applicant, in case, he is ordered to be released on bail.

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

17. Consequently, the applicant is ordered to be released on bail in case **FIR No. 199 of 2024, dated 8.12.2024, registered under Sections 22 and 29 of the NDPS Act, with Police Station, Majra, District Sirmour, H.P.** on his furnishing personal bond in the sum of Rs. 1,00,000/-, with one surety, in the like amount, to the satisfaction of learned trial Court.

18. 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.

f) 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, till the completion of trial.

19. 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.

20. 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.

21. The Registry is directed to forward a soft copy of the bail order to the Superintendent of Model Central Jail, Nahan, H.P. through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

22. In case, the applicant is not released within a period of seven days from the date of grant

of bail, the Superintendent of Model Central Jail, Nahan, H.P. is directed to inform this fact to the Secretary, DLSA, Nahan. The Superintendent of the Model Central Jail, Nahan, H.P. is further directed that if the applicant fails 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

28.10.2026
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