IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MP(M) No. 1995 of 2026
Reserved on 30th October, 2026
Decided on 31st October, 2026
Uploaded on 31st October, 2026

Vijay Garla **…Petitioner**

Versus

State of HP **…..Respondent**

Coram

Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.
[1]Whether approved for reporting?

For the petitioner : **Ms. Kiran Dhiman, Advocate.**

For the respondent/State : **Mr. Lokender Kutlehria, Additional Advocate General.**

Chirag Bhanu Singh, Judge

The petitioner has preferred an application under Section 483 of Bharatiya Nagarik Suyraksha Sanhita, 2023 (for short "BNSS") seeking post-arrest bail in case FIR No. 164 of 2026, dated 10.07.2026 registered at Police Station Sunder Nagar, District Mandi, H.P., under Sections 20, 25 & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "NDPS Act").

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[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 respondent-State, is that on 10.07.2026, HC Hans Raj alongwith police team had set up a Naka at Pungh on the fourlane, Sundernagar. At about 05:00 PM, a white taxi was noticed coming from Sundernagar side. On seeing the police party, the driver of the taxi had turned it back and fled from the spot. The police patrol immediately followed the taxi. About 500 meters ahead of the spot, the car bearing Registration No. HP 01K 6245 was found parked near a truck bearing Registration No. HP 31E 4519.

3. Four persons were found sitting in the car. On asking as to why they sped away from the spot, no satisfactory explanation was forthcoming. The police party tried to look for independent witnesses, however, after some time, a tipper bearing Registration No. HP 65A 9665 had reached the spot. The tipper driver Deepak agreed to be associated as an independent witness.

4. In the presence of the independent witness, Investigating Officer had asked the names of the persons sitting in

the car. The driver of the taxi had disclosed his name as Harish, while the person sitting on the co-driver's seat had disclosed his name as Ritesh Thakur. The persons sitting in the rear had disclosed their name as Akhil Duttwalia and Vijay (the present petitioner). The search of the vehicle yielded the recovery of 512 grams of charas. All the four accused came to be arrested at the spot.

5. The petitioner is presently in judicial custody.

6. After following all the codal formalities, the Investigating Officer had taken the contraband into possession. Both the accuseds came to be arrested at the spot. The present petitioner is still in judicial custody.

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

8. It was urged with vehemence by the learned counsel for the petitioner that "intermediate" quantity of contraband had been recovered from the petitioner, and as such, the rigors of Section 37 would not apply with the same force. No doubt, two other cases stand registered against the petitioner under the Act,

however, the quantity recovered from the petitioner in that case was small/intermediate in quantity. Seeing to the quantity of contraband recovered, in the present case, the petitioner is entitled to the discretion of bail.

9. Per contra Mr. Lokender Kutlehria, learned Additional Advocate General for the State has vociferously urged that keeping in view the past antecedents of the petitioner, it seems that his ***modus operandi*** is to carry small quantity of contraband. There are chances that the petitioner may again indulge in same and similar activities in the future too. The discretion of bail, thus, cannot be exercised in his favour.

10. The perusal of the report does show that the quantity of contraband recovered in the present case is indeed “less than commercial”, being 512 grams of charas and as such, the rigors of Section 37 will not ***stricto sensu*** apply in the facts and circumstances of the present case with the same vigour. The recovery is also not solely attributed to the petitioner.

11. It further transpires from the record that the charge-sheet has already been filed. The culmination of the trial is thus

likely to take sufficient time. Pre-trial incarceration is otherwise generally 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).***

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

13. 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.

14. Though a repeat offender under normal circumstances this Court would not have exercised discretion in his favour but seeing to the peculiar circumstances, discussed above and keeping in view the fact that the quantity of contraband recovered from the accused in the present case is less than commercial and the trial is likely to take time, it would be in the interest of justice and fairplay that the discretion of bail is exercised in his favour, but subject to strict terms.

15. 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, but the State would be at liberty to take steps for seeking preventive detention of the petitioner or for

sending him for treatment or reformation.

16. 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 and the State shall also be at liberty to take steps for seeking preventive

detention of the petitioner or for sending him for treatment or reformation.

17. 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.

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

19. A copy of this order be sent to the Superintendent, District Jail Mandi, H.P. and the learned Trial Court by **FASTER.**

(Chirag Bhanu Singh)
Judge

31st October, 2026
(Ritu)

RITU RANI
Digitally signed by RITU RANI
Date: 2026.10.31 14:51:34 +0545