IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MP(M) No. 1993 of 2026
Reserved on 03rd November, 2026
Decided on 4th November, 2026

Chetan Kheora **…Petitioner**

Versus

State of HP **…..Respondent**

Coram

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

For the petitioner : **Mr. Vinay Thakur, Advocate & Mr. P.C. Thakur, Advocate.**

For the respondent/State : **Mr. Lokender Kutlehria, Additional Advocate General, Assisted by IO HC Bhupender Singh No.33, PS Sanjauli, HP.**

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. 46 of 2026, dated 20.06.2026 registered at Police Station Sanjauli, District Shimla, under Sections 21 & 29 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as "the 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 19.06.2026, a police party headed by HC Jogeshwar Singh was on patrolling. A secret information had been received at about 07:05 PM that one Chetan Kheora (the petitioner) resident of Lambidhar P.O. Kufri, Tehsil & District Shimla and one Sahil Tegta were dealing in narcotics and were proceeded towards Batish Colony Link Road in a car bearing Registration No.HP 10 C 1154. If the vehicle is apprehended a large quantity of drugs may be recovered.

3. Acting swiftly, the Investigating Officer had recorded the reasons of belief under Sections 42(2) of the Act and sent the same through constable Dinesh to the Supervisory Officer of PS Sanjauli. In the meanwhile, he had associated one Devender Singh and Chatter Singh found outside the Deepak Guesthouse as independent witnesses.

4. Thereafter, the raiding party had proceeded towards the spot. At about 07:25 PM, the aforesaid car was noticed coming from Batish Colony side. Since the road was congested, the driver of the car had tried to turn back, but to no avail. The persons sitting on the rear seat had tried to flee from the spot and so did the driver of the

car. The driver of the car was apprehended at the spot, however, the person sitting on the rear had managed to flee.

5. In the presence of the independent witnesses, the driver of the vehicle had disclosed his name as Chetan Kheora (the petitioner). The vehicle of the petitioner came to be checked in the presence of the independent witnesses and during the course of search, a polythene packet was found concealed below the foot mat of the driver's seat. On opening the same, 8.430 grams of Heroin (Chitta) was recovered. The petitioner came to be arrested at the spot. Presently is in judicial custody.

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

7. Admittedly the quantity of contraband recovered in the present case is “less than commercial”, being 8.430 grams of heroin (Chitta) 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 vigor. The recovery is also not solely attributed to the petitioner, however, the other co-accused is stated to be at large till date, as he had absconded.

8. One case is also stated to have been registered against

the petitioner, prior to this occurrence, under Sections 21 & 29 of the Act at Police Station Sadar Solan vide FIR No.256/2025 dated 18.12.2025.

9. The registration of the earlier cases under the Act is, however, suggestive of the fact that the petitioner is an habitual offender. However, in both the case, the contraband recovered was intermediate.

10. 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).***

11. "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]***.

12. 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.

13. 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 in the interest of justice and fairplay that the discretion of bail is exercised in his favour, but subject to strict terms.

14. 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.

15. 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 canceled 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.

16. 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.

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

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

(Chirag Bhanu Singh)
Judge

4th November, 2026
(Ritu)

RITU RANI
Digitally signed by RITU RANI
Date: 2026.11.04 15:30:32 +0545