IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.2017 of 2026
Date of Decision: 26.10.2026

Ritik Jishtu .…….Petitioner

Versus

State of HP … Respondent

Coram:
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? [1]

For the Petitioner	**:**	Mr. H.K.S. Thakur & Mr. Ram Kumar, Advocates.
For the Respondent	**:**	Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General. ASI Vidya Nand, PS Kumarsain, District Shimla, Himachal Pradesh, present in person along with record.

Sandeep Sharma, Judge(oral):

Bail petitioner, namely Ritik Jishtu, who is behind bars since 01.02.2026, has approached this Court in the instant proceedings filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (hereinafter, "***BNSS***") for grant of regular bail in FIR No. 8 of 2026, dated 01.02.2026, under Section 21 of ND&PS Act, registered at Police Station Kumarsain, District Shimla, Himachal Pradesh.

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

2. In terms of order dated 08.10.2026, respondent-State has filed status report and ASI Vidya Nand has come present with record. Record perused and returned.

3. Close scrutiny of the status report/record reveals that, on 01.02.2026 at 3:30 p.m., police party, while present near Badu on Sunni Link Road, found one person standing on the roadside in suspicious circumstances and as such, deemed it necessary to search him. On seeing the police, person standing on the road threw something into the nearby bushes. Police apprehended the aforesaid person, who disclosed his name as Ritik Jishtu, i.e. present bail petitioner. After associating independent witnesses, police, besides conducting personal search of the petitioner, also recovered one packet from the nearby bushes containing 6.77 grams of chitta/heroin. Since no plausible explanation was rendered with regard to the possession of the aforesaid intermediate quantity of contraband, police, after completing the necessary codal formalities, lodged FIR detailed hereinabove, arrested the bail petitioner and since then, he is behind bars.

4. Since challan stands filed in the competent Court of law and nothing remains to be recovered from the bail petitioner, prayer has been made on his behalf for grant of regular bail. Primarily, bail has been sought on the ground of inordinate delay in the conclusion of the trial.

5. While fairly admitting factum with regard to filing of challan in the competent Court of law, Mr. Rajan Kahol, learned Additional Advocate General, states that though nothing remains to be recovered from the bail petitioner, but keeping in view the gravity of the offence alleged to have been committed by him, he does not deserve any leniency. He submits that petitioner is a drug peddler who, in the event of his being enlarged on bail, may not only flee from justice but may also indulge in such activities again. To substantiate his aforesaid plea, he specifically refers to the status report, wherein it is stated that in past, three cases under ND&PS Act stand registered against the bail petitioner. He further submits that trial has already commenced and out of 26 witnesses, six prosecution witnesses have already been examined and as such, prayer made on behalf of the petitioner for grant of bail on the ground of inordinate delay cannot be considered.

6. Having heard learned counsel for the parties and perused the material available on record, this Court is not persuaded to agree with Mr. H.K.S. Thakur, learned counsel for the petitioner, that petitioner has been falsely implicated, rather this Court finds that intermediate quantity of contraband came to be recovered from the conscious possession of the petitioner in the presence of independent witnesses. However, having taken note of the fact that bail petitioner is behind bars for more than eight months, coupled with the fact that

prosecution has been able to examine only six out of 26 witnesses during the last one year, this Court is persuaded to consider the prayer made on behalf of the petitioner for grant of bail. No doubt, in past, three cases stand registered against the bail petitioner, but such fact may not be sufficient to conclude that bail petitioner is a drug peddler. Moreover, quantity of contraband recovered in the aforesaid cases under ND&PS Act persuades this Court to agree with the contention of Mr. H.K.S Thakur, learned counsel for the petitioner, that bail petitioner is a drug addict and as such, no fruitful purpose would be served by keeping him behind bars for an indefinite period, rather he needs to be provided with immediate medical assistance so that he can be brought back into the mainstream at the earliest.

7. Rigours of Section 37 of the ND&PS Act are also not attracted in the present case on account of recovery of an intermediate quantity. Leaving everything aside, guilt, if any, of the petitioner in the other three cases, which is yet to be established on record by the prosecution, FIR in the present case was registered on 01.02.2026, but till date, prosecution has been able to examine only six witnesses, meaning thereby, considerable time is likely to be consumed in the conclusion of trial and in case, during aforesaid period, petitioner is left to incarcerate in jail for an indefinite period, it would not only amount to pre-trial conviction but would also violate Article 21 of the Constitution of India.

8. Hon'ble Apex Court as well as this Court have held in catena of cases that one is deemed to be innocent till the time his/her guilt is not proved, in accordance with law. Since guilt, if any, of the bail petitioner is yet to be established on record by the prosecution by leading cogent and convincing evidence, this court sees no reason to curtail the freedom of the bail petitioner for an indefinite period during trial. Apprehension expressed by learned Deputy Advocate General, that in the event of being enlarged on bail, bail petitioner may flee from justice can be best met by putting the bail petitioner to stringent conditions.

2. Needless to say, object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. Otherwise also, normal rule is of bail and not jail. Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

3. Hon'ble Apex Court in ***Criminal Appeal No. 227/2018, Dataram Singh vs. State of Uttar Pradesh & Anr*** decided on 6.2.2018 has held that freedom of an individual cannot be curtailed for

indefinite period, especially when his/her guilt is yet to be proved. It has been further held by the Hon'ble Apex Court in the aforesaid judgment that a person is believed to be innocent until found guilty.

4. In ***Manoranjana Sinh alias Gupta versus CBI, (2017) 5 SCC 218***, Hon'ble Apex Court has held that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise also, normal rule is of bail and not jail. Apart from above, Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment, which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

5. The Apex Court in ***Prasanta Kumar Sarkar versus Ashis Chatterjee and another (2010) 14 SCC 496***, has laid down various principles to be kept in mind, while deciding petition for bail viz. prima facie case, nature and gravity of accusation, punishment involved, apprehension of repetition of offence and witnesses being influenced.

6. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, bail-petitioner has carved out a case for grant of bail, accordingly, the petition is allowed and the bail-petitioner is ordered to be enlarged on bail in aforesaid FIR, subject to

his furnishing personal bond in the sum of Rs.2,00,000/- with two local sureties in the like amount to the satisfaction of concerned Chief Judicial Magistrate/trial Court, with following conditions:

> ***a. He shall make himself available for the purpose of interrogation, if so required and 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. He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;***
>
> **c.** ***He shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or the Police Officer; and***
>
> ***d. He shall not leave the territory of India without the prior permission of the Court.***
>
> ***e. He shall surrender his passport, if any, before the investigating agency.***

7. It is clarified that if the petitioner misuses the liberty or violates any of the conditions imposed upon him, the investigating agency shall be free to move this Court for cancellation of the bail.

8. Any observations made hereinabove shall not be construed to be a reflection on the merits of the case and shall remain confined to the disposal of this application alone. The petition stands accordingly disposed of.

9. A downloaded copy of this order shall be accepted by the learned trial Court, while accepting the bail bonds from the petitioner

and in case, said court intends to ascertain the veracity of the downloaded copy of order presented to it, same may be ascertained from the official website of this Court.

(Sandeep Sharma),
Judge

October 26, 2026
(sunil)