IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MP(M) No. 2127 of 2026
Reserved on 19th November, 2026
Decided on 20th November, 2026

Rajeev Kumar **…Petitioner**

Versus

State of HP **…..Respondent**

Coram

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

For the petitioner : **Mr. Vipin Pandit, Advocate.**

For the respondent/State : **Mr. Rajpal Thakur, 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. 178 of 2026, dated 14.06.2026 registered at Police Station Nalagarh, District Solan, under Sections 21, 29, 61 & 85 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as "the Act").

2. The facts which emerge from the status report so filed

by the respondent-State, is that on 14.06.2026, Investigating Officer ASI Inder Kumar had left for patrolling alongwith a police team. When the police party was present at Baddi, a secret information had been received that one Pawan Neer S/o Balwinder Singh resident of Village Shahpur (Punjab), Satpal Singh S/o Ramdayal resident of Village Gagulwal and Rajeev Kumar (the present petitioner) S/o Sh. Major Singh resident of Village Dang, Tehsil Nalagarh, were dealing in narcotics. Presently, Pawan Neer and Satpal Singh were travelling in a car bearing Registration No. HP12D7078 (Alto) within Nalagarh. The car is always stacked with a huge quantity of heroin (Chitta) and the two generally supply narcotics to one Rajeev Kumar, who runs a shop in Baddi. Presently the trio are near the shop of Rajeev Kumar.

3. Acting swiftly, the Investigating Officer, ASI Inder Kumar, had prepared the reasons of belief under Section 42(2) of the Act and had sent the same to SDPO Nalagarh through Constable Pankaj Singh. The rest of the team had proceeded towards the shop of Rajeev Kumar (towards the spot). On the way, the Investigating Officer had associated one Om Prakash

and Harvinder Singh as independent witnesses. At about 3:32 PM, the raiding party had reached the shop of Rajeev Kumar. The car bearing Registration No. HP12D7078, were also found parked near the shop. The moment the police petrol stopped near the car one person had come out of the co-driver seat and ran towards the shop of Rajeev Kumar(the present petitioner). The driver of the vehicle was apprehended at the spot and so was the person who had fled from the co-driver's seat.

4. In the presence of the independent witnesses, the person sitting at the driver seat had disclosed his name as Pawan Neer, while the person who had fled from the co-driver seat had disclosed his name as Satpal Singh. The Investigating Officer had thereupon searched the vehicle bearing Registration No. HP12D7078.

5. After following all the codal formalities, the Investigating Officer had conducted the search of the vehicle. During the course of search, one transparent polythene packet was found concealed in the steering of the car. On opening the polythene packet, contraband in the shape of heroin was found. On weighing it was found to be 24.94 grams.

6. Simultaneously, the raiding party had also searched the shop of Rajeev Kumar(the present petitioner). During the course of search of the shop, transparent polythene packet tied with a knot and a digital weighing machine was found concealed below the cushion of a bench lying inside. On opening the polythene packet, 11.20 grams of heroin (chitta), was recovered. The raiding party had also recovered an amount of Rs.49,500 in different denominations from the shop.

7. All the three accuseds came to be arrested at the spot. Presently the petitioner is in judicial custody.

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

9. Admittedly, the contraband recovered from the shop of the petitioner weighed around 11.20 grams and about 24.94 grams was recovered from co-accused, travelling in the car, the quantity of contraband having been recovered from the petitioner being less than commercial, the rigors of Section 37 may not ***stricto sensu*** apply in the facts and circumstances of the present case.

10. As per the status report, no case under the NDPS is

stated to have been registered against the petitioner prior to this case.

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. 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) That the petitioner shall not indulge in similar offences henceforth.

15. 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.

16. The petition stands accordingly disposed of. A copy of this order be sent to the Superintendent, Sub-jail Nalagarh at Kishanpura, District Solan, H.P. and the learned Trial Court by **FASTER.**

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

(Chirag Bhanu Singh)
Judge

20th November, 2026
(Ritu)

RITU RANI
Digitally signed by RITU RANI
Date: 2026.11.20 14:36:14 +0545