(2026:HHC:49209)

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No.2108 of 2026
Decided on: 06.11.2026

Manoj Kumar ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

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

For the Petitioner	:	Mr. Sunil Dutt Gautam and Mr. Harmohan Thakur, Advocates.
For the Respondent	:	Mr. Lokender Kutlehria, Additional Advocate General.

Chirag Bhanu Singh, Judge

The present bail petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, seeking post-arrest bail in case FIR No. 148 of 2026, dated 14.07.2026, registered at Police Station Sadar Chamba, District Chamba, H.P., under Sections 21 and 29 of the Narcotic Drugs & Psychotropic Substances Act (hereinafter referred to as the "Act").

2. The facts which emerge from the status report so filed by the State are that on 14.07.2026, Inspector

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

Gagandeep Singh, In-charge, SIU Chamba, along with a police party, was on patrolling. At about 01:40 PM, when the police party was at Fulnutala, a secret information was received that one Manoj Dhawan was selling narcotics in his residential house and, in case the place was raided, a huge quantity of contraband may be recovered.

3. Acting swiftly, the Investigating Officer, Inspector Gagandeep Singh, recorded the reasons of belief under Section 42(2) of the Act and sent the same to the Deputy Superintendent of Police, Chamba, through Constable Amit Kumar. In the meanwhile, the Investigating Officer, along with the police team, proceeded towards the house of accused Manoj Dhawan. On the way, he telephonically asked the Pradhan of Gram Panchayat Sarol, Vijay Kumar, to reach the spot. The Panchayat Pradhan, Vijay Kumar, met the police party outside the house of the accused. In the meanwhile, another person, Mulak Raj, also reached the spot. Both he and the Pradhan of Gram Panchayat Sarol were associated as independent witnesses. After their arrival, the Investigating Officer proceeded to the house of the accused.

4. In the presence of the independent witnesses, the Investigating Officer met the brother of the accused. Subsequently, the accused was also found in the other room. The police party conducted the search of the accused. Thereafter, while searching the house of the accused, one blue guitar was found on the top of an almirah. Inside the guitar, one transparent polythene bag was found, inside which a brownish substance was recovered. On the basis of the disclosure statement of Manoj Dhawan, it was found to be heroin (chitta). On weighing, the same was found to be 42.37 grams.

5. After following the codal formalities, the contraband so recovered was taken into possession. The accused Manoj Dhawan (petitioner) also came to be arrested at the spot. He is presently in judicial custody.

6. During the course of investigation, the co-accused/petitioner is stated to have made a disclosure statement that the recovered contraband had been purchased by him and Sanjay Kumar and Jagesh Dhar from Pathankot on 13.07.2026. Eventually, Sanjay Kumar and Jagesh Dhar came to be arrested on 28.07.2026.

7. As per the report, the challan already stands filed. One case under the NDPS Act already stands registered against the petitioner/accused, being FIR No.112 of 2025, dated 08.05.2025, registered under Sections 21, 25 and 29 of the Act, in which 4.72 grams of heroin (chitta) is alleged to have been recovered from the petitioner.

8. The other co-accused Sanjay Kumar is also stated to have been enlarged on bail.

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

10. 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, four other cases stand registered against the petitioner under the Act, but in the other four cases too, the quantity recovered from the petitioner was small in quantity, being 1.38 grams, 0.46 grams, 2.75 grams and 34 grams. Seeing to the quantity of contraband recovered, the petitioner was entitled to the discretion of bail, being an addict and not a peddler.

11. Per contra Mr. Lokender Kutlehria, the 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.

12. The perusal of the report does show that the quantity of contraband recovered in the present case is indeed “less than commercial”, being 21.017 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 vigour. The recovery is also not solely attributed to the petitioner.

13. The registration of the earlier cases under the Act is, however, suggestive of the fact that the petitioner is an habitual offender. However, out of the four cases, the contraband recovered in three was small in quantity and in one case, it was intermediate.

14. It further transpires from the record that the chargesheet 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).**

15. “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].

16. 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. The co-accused Parul Guleria is also alleged to have been complicit in the commission of the offence.

17. 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. The other coaccused namely Parul Guleria also is stated to have 2-3 cases

registered against her under the Act, but she is stated to have been already enlarged on bail by the learned Sessions Judge. Both the accuseds seem to be addicted to the drugs and seemingly, are not peddlers.

18. 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.

19. 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 sureities 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.

20. 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

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

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

(Chirag Bhanu Singh)
Judge

06th November, 2026
(subhash sharma)

SHAMSH TABREZ
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