IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Cr.MP(M) No.3010 of 2025
Reserved on:- 02.01.2026
Date of Decision: 05.01.2026

Kamal Kumar …Applicant

Versus

State of H.P. …..Respondent

Coram:

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?[1]

For the applicant : Mr. Vikram Thakur, Advocate.

For the respondent : Mr. H.S. Rawat and Mr. Tejasvi Sharma, Additional Advocates General with Ms. Ranjna Patial, Deputy Advocate General, assisted by ASI Vijesh Kumar, PS Sadar, Shimla, District Shimla H.P.

Virender Singh, Judge

By way of the present application, filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), applicant-Kamal Kumar has sought his release, on bail, during the pendency of the trial, arising out of **FIR No.98 of 2025, dated 02.11.2025,** registered **under Sections 20 & 29 of the Narcotic Drugs & Psychotropic Substances Act**

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

(hereinafter referred to as the 'NDPS Act'), with **Police Station, Sadar Shimla, District Shimla, H.P.**

2. According to the applicant, he is innocent person and has falsely been implicated, in this case. He has no concern, whatsoever, with the crime in question.

3. Investigation in the present case is stated to be complete.

4. The applicant had earlier tried his luck by moving the similar bail application before the Court of learned Special Judge, Shimla, District Shimla, H.P. However, the said application was dismissed on 11.12.2025. Thereafter, the applicant has filed the present bail application.

5. Learned counsel appearing for the applicant has also sought relief of bail, on the ground of parity that his co-accused namely Seema Devi has already been released on bail, by the learned Special Judge, Shimla, District Shimla, H.P. on 29.11.2025.

6. Apart from this, the applicant has also mentioned the fact that except the present case, another case bearing FIR No.130 of 2024, under Section 21 and 29

of ND&PS Act, has already been registered against him and the trial arising of the said case, is pending in the Court of learned Special Judge, Shimla.

7. On the basis of the above facts, Mr. Vikram Thakur, Advocate, appearing for the applicant, has given certain undertakings, on behalf of the applicant, for which, the applicant is ready to abide by, in case, ordered to be released on bail, during the pendency of the trial.

8. On the basis of the above facts, a prayer has been made to allow the bail application.

9. When, put to notice, the police has filed the status report, disclosing therein, that ASI Puneet, IO Special Cell, Shimla has forwarded a Rukka to Police Station, Sadar Shimla. On 02.11.2025, he, along with other police officials, under the leadership of ASI Sushil Kumar, was on patrolling duty and duty to detect the crime, relating to excise etc. and they were present at Old Bus-stand, Shimla. At about 12:45 PM, IO received a secret information, that in Room No.25 of Hotel Sun-N-Snow, one woman and two men are staying and their names are Mukesh Sharma, Kamal Kumar and Seema Devi.

9.1. As per information, they are having large quantity of charas in their possession and in case, Room No.25 of the said hotel is raided, then, a large quantity of charas could be recovered. The said information was found to be authentic and reliable and according to the IO, in case, he obtains the search warrant, in that eventuality, delay could be caused and the contraband could be removed from there by the accused persons, upon which, IO complied with the provisions of Section 42(2) of ND&PS Act and submitted the same to the Supervisory Officer. The police of Police Station, Sadar Shimla was requested to provide a lady constable.

9.2. Thereafter, IO along with other police officials, reached at hotel Sun-N-Snow. At about 8:15 PM, when, he reached outside the said hotel, then, lady Constable Rajni No.1580, Police Station Sadar, Shimla, also joined the police party and IO apprised her about the information.

9.3. Thereafter, IO, along with other police officials, reached at the reception of the said hotel and one person was found sitting in the reception. The IO has given his identification, as well as, identification of the police team

and enquired the name of the said person, who on inquiry, disclosed his name as Vijay Singh son of Chandan, Receptionist of hotel Sun-N-Snow. He was also requested to be the independent witness. Thereafter, the police party reached at Room No.25. Door of the room was knocked by ASI. After some time, one woman opened the door.

9.4. Apart from the said lady, two other men were found, as per the information. Thereafter, the IO had given his identification, as well as, identification of the police team to the said persons and also apprised them, about the information, which, he had received. On inquiry, those persons disclosed their names, as Seema Devi wife of Naval Kishore, Mukesh Sharma son of Daya Nand Sharma and Kamal Kumar son of Sheesh Ram (applicant). Thereafter, the IO had given his personal search, as well as, search of the police team to the accused persons and the said fact was documented. Thereafter, the IO searched the room.

9.5. During search of the room, near pillow of the double bed, a lady purse was found, which, on checking was found containing a passbook, issued in the name of Seema Devi and in one pocket of purse, a transparent

polythene envelope was found, which was found containing small ball shaped black coloured substance. On opening the said transparent envelope, the said substance was checked, which, on the basis of experience, was found to be charas. All the three persons have also confirmed the said fact and disclosed that they had brought the said charas from Anni. On weighment, the said charas was found to be 452 grams. Other codal formalities were completed.

9.6. After registration of the FIR, the accused persons were arrested. Thereafter, the contraband, was sent to SFSL Junga, from where, the positive report has been received.

9.7. According to the police, apart from the present case, FIR bearing No.130 of 2024, was found to be registered against the applicant, in which, the contraband allegedly recovered is 6.25 grams chitta and said case is stated to be pending before the Court of learned Special Judge, Shimla.

9.8. On the basis of the above facts, it has been apprehended that in case, the applicant is released on bail, he may again indulge in the same activities and may coerce

the witnesses, as well as, allure them to depose in his favour.

10. On the basis of the above facts, a prayer has been made to dismiss the application.

11. First of all, coming to the fact of registration of case bearing FIR No.130 of 2024 against the applicant, in which, the police has allegedly recovered 6.25 grams chitta, admittedly, in the said case, the applicant has not been convicted by the competent Court of law, as such, presumption of innocence is still available to him.

12. Moreover, no efforts have been made by the police to get the bail granted to the applicant, in the said case, cancelled, by moving the appropriate application.

13. The investigation, in the present case, is complete and considering the fact that contraband, allegedly recovered, in the present case, does not fall within the definition of commercial quantity, this Court is of the view that when, the rigors of Section 37 of the NDPS Act, are not applicable, then, keeping the applicant, in judicial custody that too, without the trial, would be nothing, but, pre-trial punishment, which is prohibited under the law.

14. The chances of commencement and conclusion of the trial against the applicant, in near future, are not so bright, as the learned Special Judge, Shimla has not yet framed the charges, in the case.

15. Applicant is permanent resident of District Shimla, as such, it cannot be apprehended that in case, the the applicant is released on bail, he may not be available for the trial.

16. Considering all these facts, this Court is of the view that the present bail application is liable to be allowed and is accordingly allowed.

17. Consequently, the applicant is ordered to be released, on bail, during the course of trial, arising out of **FIR No.98 of 2025, dated 02.11.2025,** registered **under Sections 20 & 29 of the ND&PS Act**, with **Police Station, Sadar Shimla, District Shimla, H.P.**, on his furnishing personal bond in the sum of Rs.,50,000/-, with two sureties of the like amount, to the satisfaction of the learned trial Court.

18. This order, however, shall be subject to the following conditions:-

a) Applicant shall 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) Applicant shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;

c) Applicant shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or the Police Officer, and

d) Applicant shall not leave the territory of India without the prior permission of the Court.

19. Any of 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 to the disposal of the present bail application.

20. It is made clear that respondent-State is at liberty to move an appropriate application, in case, any of the bail conditions is found violated by the applicant.

21. The Registry is directed to forward a soft copy of the bail order to the Superintendent of Jail, Kaithu, District Shimla, Himachal Pradesh, through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

22. In case, the applicant is not released within a period of seven days from the date of grant of bail, the

Superintendent of Jail, Kaithu, Shimla, District Shimla, Himachal Pradesh, is directed to inform this fact to the Secretary, DLSA, Shimla. The Superintendent of Jail, Kaithu, District Shimla, Himachal Pradesh, is further directed that if the applicant fails to furnish the bail bonds, as per the order passed by this Court, within a period of one month from today, then, the said fact be submitted to this Court.

(Virender Singh)
Judge

January 05, 2026
(subhash)

PRADEEP
Digitally signed by PRADEEP
Date: 2026.01.05 16:14:21 +0530