IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr. MP (M) No. 1526 of 2026
Date of Decision: 21.8.2026

Ankur Thakur ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

Coram:
The Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?[1]

For the Petitioner Mr. Ashwani K. Sharma and Ms. Shivani, Advocates.

For the Respondent Mr. Vishal Panwar, Additional Advocate General and Mr. Ravi Chauhan, Deputy Advocate General.

Sandeep Sharma, J. (Oral)

Bail petitioner namely Ankur Thakur, who is behind bars since 16.4.2026, has approached this Court in the instant proceedings filed under Section 483 of Bharatiya Nagrik Suraksha Sanhita (hereinafter referred to as the 'BNSS') for grant of regular bail in case FIR No. 118 of 2026, dated 16.4.2026, registered at Police Station Sadar, Hamirpur District Hamirpur, Himachal Pradesh, under Section 21 of the NDPS Act.

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

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2. Respondent-State has filed the status report and ASI Digvijay Singh, PS Sadar, Hamirpur, has come present with record. Record perused and returned.

3. Close scrutiny of record/status report reveals that on 16.04.2026, police after having received secret information that bail petitioner, who at the relevant time was returning from Chandigarh in personal Swift car bearing registration No. HP-22D-4857 is carrying huge quantity of heroin/chitta, intercepted the aforesaid vehicle in the presence of independent witnesses and allegedly, recovered 8.49 grams heroin/chitta. Since no plausible explanation ever came to be rendered on record qua possession of aforesaid contraband, police after having completed necessary codal formalities, lodged FIR detailed hereinabove against the bail petitioner and since then he is behind the bars.

4. Though prior to filing of the application at hand petitioner had filed an application for grant of bail before the learned Court below, but same was rejected on the ground that in past, two cases under NDPS Act already stand registered against him.

5. Since challan stands filed in the competent Court of law and nothing remains to be recovered from the

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bail petitioner, this Court sees no reason to keep the bail petitioner behind the bars for an indefinite period.

6. Mr. Vishal Panwar, learned Additional Advocate General, while fairly admitting factum with regard to filing of the challan in the competent court of law, states that keeping in view the gravity of offence alleged to have been committed by the petitioner, he does not deserve any leniency. He states that there is overwhelming evidence adduced on record that the bail petitioner is drug peddler, who in the event of his being enlarged on bail, is likely to repeat the offence. To substantiate his aforesaid plea, he specifically referred to the status report, wherein it is stated that in past, three criminal cases already stand registered against him.

7. Having heard learned counsel for the parties and perused material on record, this Court is not persuaded to agree with 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 the bars for the last four months coupled with the fact that rigors of

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Section 37 of the NDPS Act are not attracted on account of recovery of intermediate quantity, this Court is persuaded to consider the prayer for grant of regular bail.

8. No doubt in past, two cases stand registered against the petitioner under the NDPS Act, but this Court finds that in one case, petitioner was convicted under Section 27 for his having consumed narcotic substance and in another case, which is still pending adjudication, there is allegation against him that there are some financial transactions inter-se him and the person, from whose conscious possession contraband, was recovered.

9. Though learned Additional Advocate General vehemently argued that bail petitioner is a drug peddler, but no cogent and convincing material to establish aforesaid fact has been placed on record, rather having taken note of the fact that in previously, petitioner was convicted under Section 27 for his having consumed the narcotic substance, this Court is persuaded to conclude that bail petitioner, who is a young boy, has become drug addict and as such, no fruitful purpose would be otherwise served by putting him behind the bars for an indefinite period during trial, rather he is required to be taken to some rehabilitation centre at

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the first instance so that after treatment, he is brought back to the mainstream.

10. Hon'ble Apex Court and this Court in a catena of cases have repeatedly held that one is deemed to be innocent, till the time, he/she is proved guilty in accordance with law. In the case at hand, complicity, if any, of the bail petitioner is yet to be established on record by the investigating agency and if he is left to incarcerate in jail during afore period, it would not only amount to pre-trial conviction, but would also be violative of Section 21 of the Constitution of India. Apprehension expressed by learned Deputy Advocate General, that in the event of being enlarged on bail, bail petitioner may flee from justice or indulge in such offences again, can be best met by putting the bail petitioner to stringent conditions.

11. 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,

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severity of the punishment which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

12. 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.

13. Hon'ble Apex Court in ***Sanjay Chandra versus Central Bureau of Investigation (2012)1 Supreme Court Cases 49*** has held that gravity alone cannot be a decisive ground to deny bail, rather competing factors are required to be balanced by the court while exercising its discretion. It has been repeatedly held by the Hon'ble Apex Court that object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative.

14. 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

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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.

15. 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.

16. In view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court, petitioner has carved out a case for grant of bail, accordingly, the petition is allowed and the 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 each to the satisfaction of learned trial Court, with following conditions:

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(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.

17. 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.

18. 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.

19. A downloaded copy of this order shall be accepted by the learned trial Court, while accepting the bail

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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

August 21, 2026
(manjit)

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