IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 1872 of 2026
Reserved on: 02.11.2026
Decided on: 03.11.2026
Uploaded on: 03.11.2026

Naula Singh ...Petitioner

Versus

State of Himachal Pradesh ...Respondent

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

For the Petitioner : M/s. Ajay Sipahiya & Tarun Mehta, 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, 2023, seeking post-arrest bail in FIR No.07 of 2026, dated 18.01.2026, registered at Police Station Bhabanagar, District Kinnaur, H.P., under Section 20 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (hereinafter referred to as the "Act").

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

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2. The perusal of the status report submitted by the State shows that on 18.01.2026, an HRTC bus bearing registration number HP 63 C 3085 on its way from Delhi to Sangla had been stopped for checking. When the police team reached near seat numbers 25 and 26, a person sitting on the seat was clinging on to a bag. On seeing the police, he got nervous. On asking, he disclosed his name as Naula Singh. Suspicion having arisen, the Investigating Officer (IO), ASI Ham Raj, associated the driver Niku Ram and the conductor of the bus as independent witnesses.

3. In their presence, he checked the blue backpack carried by the accused-petitioner, Naula Singh.

4. Upon opening the backpack, a light pink carry bag was found, which had been taped with a transparent tape. Upon opening the carry bag, 1 kg 160 grams of charas was recovered. The accused came to be arrested at the spot. Presently, he is in judicial custody.

5. I have heard the learned counsel for the parties and gone through the record carefully.

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6. The learned counsel for the petitioner has vehemently urged that the recovery of the contraband is shrouded in doubt. None of the passengers had been associated as independent witnesses. Learned counsel for the petitioner would further contend that the deposition of one of the witnesses, Constable Dheeraj Kumar, shows that a brown-coloured stick-shaped substance had been recovered, whereas when the parcel was opened, charas in the shape of powder had been recovered. Further, he would contend that though the petitioner is a Nepali, he resides in Himachal and there is no likelihood of his fleeing from justice. Even otherwise, there is no law which authorizes or permits discrimination between a foreign national and an Indian national in the matter of granting bail. Since the challan stands filed and all recoveries have been effected, there is no justification for any continued incarceration of the petitioner.

7. *Per contra*, Mr. Lokender Kuthelria, learned Additional Advocate General would contend that the quantity of contraband recovered from the petitioner is "commercial" in quantity and as such, the rigours of Section 37 will apply with all force. Over and above, the petitioner being a Nepali national, if

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he leaves the country, there would be no chances of the trial culminating. He thus submits that the petitioner is not entitled to the discretion of bail at this stage.

8. Having heard the contentions so raised and after having gone through the record, it transpires that the charge sheet already stands filed and even the trial has commenced. The matter had been listed for the evidence of the prosecution on 12.10.2026 and is again listed for the remaining evidence on 14.12.2026.

9. Admittedly, the quantity of contraband recovered is commercial in nature and as such, the rigours of Section 37 will apply with full force.

10. Over and above, the petitioner being a Nepali citizen, the chances of his fleeing from justice also cannot be ruled out. Undoubtedly, though no distinction can be made *vis-à-vis* foreign and Indian nationals for the grant of regular bail, seeing to the fact that the rigours of Section 37 are equally applicable even to Indian nationals, the same would thus also apply in the case of the petitioner too with the same force. Having been found in conscious possession of more than 1 kg of charas,

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keeping in view the material collected by the prosecution till now, there are reasonable grounds for believing that he is guilty of such an offence.

11. It is also not the case that the trial has been unnecessarily delayed. It transpires from the record that the trial has not only commenced, but even the prosecution evidence has started. The matter is otherwise listed for the remaining evidence of the prosecution on 14.12.2026. The record further shows that independent witnesses have still to be examined.

12. Seeing to the fact that the trial is at an advanced stage and there has hardly been any undue delay in the commencement of the trial, it would not be expedient and in the interest of justice that the present petition is allowed, more so keeping in view the fact that the independent witnesses are still to be examined.

13. Even otherwise, the Hon'ble Supreme Court has lately cautioned the courts that in case the trial has commenced, the discretion of bail be not generally exercised, at least in heinous matters.

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14. In this behalf, support can aptly be drawn from a recent judgment of the Hon'ble Supreme Court rendered in ***X vs. State of Rajasthan [MANU/SC/1267/2024]***. It may be apt to reproduce the following paragraphs of the aforesaid judgment, which reads thus:-

> ***"14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.***
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> ***15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the learned trial Court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.***
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> ***16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed."***

15. In the present case, since the contraband involved is commercial in nature and keeping in view the fact that the trial has not only commenced but is proceeding expeditiously, this

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Court is of the considered opinion that the discretion of bail cannot be exercised in favour of the petitioner, at least at this stage.

16. The present petition stands dismissed in the aforesaid terms, along with the pending miscellaneous application(s), if any.

(Chirag Bhanu Singh)
Judge

03rd November, 2026
(Shamsh Tabrez)

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