IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 2024 of 2026
Date of Decision: 04.11.2026

Satwant 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. Narendra Guleria & Tejaswani Singh, Advocates.

For the Respondent/State : Mr. Raj Pal Thakur, Additional Advocate General.

Chirag Bhanu Singh, Judge (Oral)

The petitioner has preferred an application under Section 483 of Bharatiya Nagarik Suyraksha Sanhita, 2023 (in short "BNSS") seeking post-arrest bail in Case FIR No.222 of 2026, dated 07.08.2026 registered at Police Station Sadar Mandi, District Mandi, H.P., under Section 21 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as "the Act").

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

2. The facts which emerge from the status report, so filed by the State is that on 07.08.2026, HC Pawan Kumar along with the police party was on routine patrolling duty. At about 01:00 PM, a secret information was received by the Investigating Officer (I.O.) that one person was traveling in a vehicle bearing registration No. HP-34E-3367 from Mandi to Kullu via the expressway. It was informed that in case the vehicle was intercepted, a huge quantity of contraband could be recovered. After about 10 minutes, the said vehicle was noticed coming from the Mandi side. It was signaled to stop. On inquiry, the driver of the vehicle disclosed his name as Satwant Singh. In the meantime, the Investigating Officer associated two independent witnesses, namely, Sahil, son of Bhola Ram and Dalbir Singh, son of Ram Lal, who were present near the spot.

3. Subsequently, the Investigating Officer conducted a search of the aforesaid vehicle in the presence of the independent witnesses. During the course of search, from the dashboard of the vehicle, a transparent polythene packet was recovered containing some brown granular substance. On the basis of experience and the disclosure made by the accused

Satwant Singh, the recovered substance was found to be heroin *(chitta)*. On weighing, it was found to be 5.27 grams.

4. After completing all the codal formalities, the Investigating Officer took the contraband into possession and the accused was arrested at the spot. Presently, he is in judicial custody.

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

6. It was urged with vehemence by the learned counsel for the petitioner that an intermediate quantity of contraband had been recovered from the petitioner and, as such, the rigours of Section 37 of the ND&PS Act would not apply with the same force. No doubt, only one case stands registered against the petitioner under the Act and previously the quantity of contraband recovered from the petitioner is alleged to be only 1.4 grams of heroin (chitta) and 111 grams of charas. The quantity recovered from the petitioner is thus also "intermediate" even in that case. Having regard to the quantity of contraband recovered from the petitioner, the petitioner is entitled to the discretion of bail, which also lends credance to

the submission made that the petitioner is an addict and not a peddler.

7. *Per contra*, Mr. Raj Pal Thakur, 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.

8. The perusal of the report does show that the quantity of contraband recovered in the present case is indeed "less than commercial", being 5.27 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.

9. The registration of the earlier cases under the Act is, however, suggestive of the fact that the petitioner is an habitual offender. However, the contraband recovered in the case was only small in quantity.

10. 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).***

11. "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].***

12. 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.

13. 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.

14. 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.

15. 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) In the event of the petitioner being found involved in any other case under the ND&PS Act, or an FIR being registered against him under the said Act, the concession of bail granted in the present case shall be liable to be revoked and the respondent-State shall be at liberty to take appropriate steps against the petitioner in accordance with law."

16. 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.

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

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

(Chirag Bhanu Singh)
Judge

04th November, 2026
(Shamsh Tabrez)

SHAMSH TABREZ

Digitally signed by SHAMSH TABREZ
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