IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MP(M) No. 2030 of 2026
Reserved on 04th November, 2026
Decided on 05th November, 2026

Kunal Rawat **…Petitioner**

Versus

State of HP **…..Respondent**

Coram

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

For the petitioner : **Mr. Suneel Awasthi, Advocate.**

For the respondent/State : **Mr. Rajpal Thakur, Additional Advocate General.**

Chirag Bhanu Singh, Judge

The petitioner has preferred an application under Section 483 of Bharatiya Nagarik Suyraksha Sanhita, 2023 (for short "BNSS") seeking post-arrest bail in Case FIR No. 195 of 2025, dated 11.12.2025 registered at Police Station Ghumarwin, District Bilaspur, under Sections 20 & 29 of the Narcotic Drugs and 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 11.12.2025, a police team was on patrolling.

Around 12:30 Noon, they had set up a naka at Ghulater. At about 12:50 PM, a vehicle bearing Registration No. PB 01 E 3946 (Ertiga) had reached the spot. It had been signaled to stop. The driver of the vehicle had however fled the spot. The police party had chased the vehicle and the vehicle was intercepted near Jarloo.

3. When the vehicle was intercepted, the person sitting on the rear left side of the car had fled from the spot. The other three occupants of the car, however, were detained by the police. On being confronted as to why they had fled from the naka, no satisfactory explanation was forthcoming. Suspicion having arisen, the Investigating Officer had deputed Constable Rajesh to look for an independent witnesses. He had brought one Sushant Chandel, who was associated as an independent witness by the Investigating Officer.

4. In his presence, the driver of the car had disclosed his name as Arshdeep Singh S/o Jasvinder Singh, the person sitting on the co-driver seat had disclosed his name as Manpreet Singh S/o Shri Pritam Chand, both residents of Gurdaspur, while the person sitting in the rear seat had disclosed his name as Amit Kumar S/o Ved Kumar, resident of District Doda, J&K. The fourth person, who

had allegedly fled from the spot, was stated to be one Anmol Soni, resident of Kharar, Punjab. During the course of search of the car, a white polythene was found behind the seat of the driver, tied with a knot. On opening the polythene, five packets stitched with a tape were found. On opening the packets, charas in the shape of chapatis and round balls were recovered. On weighing, the charas was found to be 3.650 kilograms.

5. After following the codal formalities, the Investigating Officer had taken into possession the contraband. All the three accuseds also came to be arrested at the spot.

6. During the course of investigation on 14.12.2025, accused Arshdeep, is stated to have identified a link road going from Manikaran to Tosh, from where he had procured the contraband from some unknown person. The accused had named the unknown person as Kunal or Eshu.

7. During the investigation, it had been further revealed that an amount of Rs.30,001/- had been transferred from the account of the co-accused Manpreet to the account of the petitioner-accused Kunal between 09.12.2025 and 10.12.2025 (Rs.1.00 +Rs.1000+Rs.1000+Rs.5000+Rs.23000 totaling Rs.30,000/-).

Based on the aforesaid information, the present petitioner had came to be arrested on 24.05.2026. He is presently in judicial custody.

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

9. The learned counsel for the petitioner would contend that no contraband had been recovered from the conscious and exclusive possession of the petitioner and his name had surfaced in pursuance to a disclosure made by one of the co-accuseds and there is no material on record to show the active participation of the present petitioner in the crime. No case is made out against the petitioner. He was working as a Manager in a hotel and had charged the accused for their stay. Even otherwise, the investigation in the case are complete and no recoveries have to be effected from the petitioner. He is innocent and has been falsely implicated at the instance of the others co-accuseds. The prosecution has already filed a challan and the trial has also commenced.

10. Per contra Sh. Rajpal Thakur, learned Additional Advocate General for the State has vociferously urged that keeping in view the gravity of the offence alleged, and the fact that the petitioner/accused was a part of an organized racket and sufficient

material had been collected against him during investigation, the discretion of bail cannot be exercised in his favour. There are chances that the petitioner may again indulge in same and similar activities in the future too. Even otherwise, the contraband recovered from other co-accused is commercial in nature.

11. It, however, transpires from record that the contraband, indeed, has not been recovered from the conscious and exclusive possession of the petitioner. Admittedly, the contraband recovered from the other co-accuseds is indeed commercial in nature.

12. The petitioner came to be arrested on the basis of a disclosure statement made by the said co-accused Arshdeep and that too while identifying the spot from where he had procured the contraband.

13. By now, it is fairly settled that a statement made by the co-accused is inadmissible in law.

14. The Hon'ble Supreme Court of India in ***Tofan Singh vs. State of Tamil Nadu 2021 (4) SCC*** 1 has in uncertain terms held that any disclosure made under Section 67 (or even under Section 23 of BNS) is inadmissible and cannot be used as a confessional statement in the trial. In a case titled as ***State By (NCB) Banguluru***

vs. Pallulabid Ahmad Arimutta and Anr. [SLP (Crl.) No. 242 of 2022, decided on 10.1.2022] the Hon'ble Supreme Court has further reiterated the aforesaid proposition of law regarding inadmissibility of the confessional statement and has further gone on to hold that even the Bank details collected in this respect will have to be examined at the stage of trial.

15. Even otherwise, merely the existence of the Bank Statement details of the accused cannot be said to be a circumstance, which alone may suffice to hold that the petitioner was complicit in the crime. Suspicion, howsoever strong, cannot take the place of proof.

16. The apprehension of the State that the petitioner may indulge in similar activities thus also seems to be unfounded. The trial is also stated to have commenced. It is thus likely to take substantial time. Pre-trial detention is also otherwise generally loathed by the Courts.

17. Thus, seeing to the totality of circumstances discussed above, the petitioner could be granted the discretion of bail, though subject to strict terms.

18. As a sequel, while allowing the present petition, it is

directed that in case the petitioner is henceforth found indulging in any similar activity and an FIR is registered against the petitioner under the provisions of the Act, even the present bail granted shall stand forfeited.

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 one surety 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.*

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 Jail Superintendent, Open Air Jail Bilaspur, District Bilaspur, HP and the learned Trial Court by **FASTER.**

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

(Chirag Bhanu Singh)
Judge

5th November, 2026
(Ritu)

RITU RANI
Digitally signed by RITU RANI
Date: 2026.11.05 16:55:17 +0545