IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP(M) No. 2113 of 2026
Date of Decision: 04.11.2026

Prabhat 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	:	Mr. Vijender Katoch, Advocate.
For the Respondent/State	:	Mr. Lokender Kutlehria, Additional Advocate General assisted by ASI Vipin Singh, Police Station Shahpur, District Kangra, H.P.

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. 78 of 2026, dated 18.07.2026 registered at Police Station Shahpur, District Kangra, H.P., under Sections 21, 25 & 29 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 the on 18.07.2026, acting upon a secret information, a team led by ASI Duni Chand conducted a raid at the residential premises of the co-accused, Ram Chand. The petitioner was stated to be present at his house at the relevant time.

3. After following the codal formalities and associating independent witnesses, namely, the Pradhan and Up-Pradhan of Gram Panchayat Ladwada, a search of the house of the accused Ram Chand yielded the recovery of 6.54 grams of *chitta* (heroin). At the time of the recovery, the petitioner was also present in the house.

4. The petitioner along with the co-accused came to be arrested at the spot. He is presently in judicial custody.

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

6. Admittedly, the contraband recovered from the room of the co-accused is intermediate in quantity, being 6.54 grams of *chitta* (heroin). Thus, the rigors of Section 37 of the NDPS Act *stricto sensu* will not apply with the same vigor. However, one

case under the ND&PS Act is stated to be pending against the petitioner.

7. The registration of the earlier case under the Act is suggestive of the fact that the petitioner is an habitual offender. However the contraband recovered in the said case was also "intermediate" in quantity. The petitioner could be put to strict terms, if he was to be enlarged on bail.

8. Even otherwise, the recovery is not solely attributed to the petitioner, rather the recovery is made from the house of the co-accused Ram Chand. Nothing was recovered from the person of the petitioner/accused.

9. The charge-sheet is stated to have already been filed before the competent Court on 08.09.2026, and as such, the trial has also commenced. Since the investigation is complete and the custody of the petitioner is no longer required for interrogation, further pre-trial detention will serve no useful purpose.

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 also 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 considerable time. Even

otherwise, the quantity of contraband recovered in the present case is intermediate. The recovery is also not attributed solely to the petitioner. Though another case under the ND&PS Act has been registered against the petitioner, Prabhat Singh, the quantity of contraband allegedly recovered in that case is also stated to be intermediate, being 10.30 grams. It is also relevant to note that, in the present case, the recovery is alleged to have been made from the house of co-accused Ram Chand and, therefore, cannot be attributed solely to the present petitioner, Prabhat Singh.

13. Keeping in view the totality of the circumstances, more particularly the fact that the challan stands filed, it would be in the interest of justice and fair play to extend the benefit of bail to the petitioner, subject to strict conditions.

14. 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."

15. 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.

16. The petition stands accordingly disposed of. A copy of this order be sent to the Superintendent, **Lala Lajpat Rai**

District & Air Correctional Home Dharamshala, District Kangra, H.P. and the learned Trial Court by FASTER.

17. 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

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