IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MP(M) No. 2123 of 2026
Reserved on 05th November, 2026
Decided on 06th November, 2026
Uploaded on 06th November, 2026

Karan Kumar **…Petitioner**

Versus

State of HP **…..Respondent**

Coram

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

For the petitioner : **Mr. Mukul Sood, Advocate.**

For the respondent/State : **Mr. Rajpal Thakur, Additional Advocate General, assisted by IO HC Narender Barresal No.8 PS Sarkaghat, HP.**

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. 158 of 2026, dated 08.09.2026 registered at Police Station Sarkaghat, District Mandi, under Sections 20, 61 & 85 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as "the Act").

2. The facts which emerge from the status report may be succinctly put thus on 08.09.2026, a team headed by ASI Manoj Kumar was on patrolling. At about 6:25 PM, when the police patrol was present near Fatehpur Chowk, a secret information had been received that one person wearing a green upper and a black lower was coming from Jahu to Nabhai side in a motorcycle bearing Registration No. HP 22F 4274. In case the motorcycle is checked, a huge quantity of contraband could be recovered.

3. Acting swiftly, the IO, ASI Manoj Kumar, had recorded the reasons of belief under Section 42(2) of the Act and had sent the same through Constable Naveen Kumar to the SDPO, Sarkarghat. The patrol, however, had proceeded towards Jahu for laying a naka. At about 6:45 PM, the aforesaid motorcycle was noticed coming from Jahu side. It was signaled to stop. The rider had disclosed his name as Karan Kumar, son of Shri Vijay Kumar (present petitioner). The Investigating Officer had tried to associate the passers-by as independent witnesses, but none obliged. Eventually, he had asked the Up-pradhan, Jagdish Chand to reach the spot alongwith some other person. After some time, the Up-Pradhan had reached the spot along with one Gurdei

Thakur, the Pradhan of Gram Panchayat Fatehpur. They were associated as independent witnesses.

4. In the presence of the aforesaid independent witnesses, the Investigating Officer had searched the motorcycle. During the course of search, a transparent polythene was found beneath the seat of the motorcycle. The polythene packet was found to contain black stick-shaped and round-shaped balls, which on the basis of experience and smell, were found to be charas. On weighing, it was found to be 109 grams.

5. After following the codal formalities, the contraband had been taken into possession. The petitioner also came to be arrested at the spot. Presently, he is in judicial custody.

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

7. The perusal of the report does show that the quantity of contraband recovered in the present case is indeed “less than commercial”, being 109 grams charas 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 vigor.

8. Admittedly, no other case under the NDPS Act is

stated to have been registered against the petitioner/accused. The challan is also stated to have been filed on 03.11.2026. The culmination of trial thus is 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).***

9. "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]***.

10. 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.

11. 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 sureities 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;

12. 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.

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

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

(Chirag Bhanu Singh)
Judge

06th November, 2026
(Ritu)

SHAMSH TABREZ

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