

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CrMP(M) No.485 of 2026

Decided on: 16.04.2026

Vikramjeet SinghPetitioner

Versus

State of Himachal PradeshRespondent

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹

For the Petitioner : Mr. M.S. Katoch, Advocate.

For the Respondent : Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General, with Mr. Ravi Chauhan and Mr. Anish Banshtu, Deputy Advocates General, for State.

HC Manoj Kumar, No.68, PS Bhuntar, present in person along with record.

Sandeep Sharma, Judge (oral):

By way of instant petition filed under Section 483 of Bharatiya Nagrik Suraksha Sanhita, prayer has been made on behalf of petitioner Vikramjeet Singh, who is behind bars since 18.01.2026, for grant of regular bail in case FIR No.09/2026, dated 15.01.2026, under Sections 21 and 29 of NDPS Act, registered at Police Station Bhuntar, District Kullu.

2. Respondent/State has filed status report and HC Manoj Kumar, No.68, PS Bhuntar, has come present along with record. Record perused and returned.

¹ Whether the reporters of the local papers may be allowed to see the judgment?

3. Close security of record/status report reveals that on 14.01.2026 at 10:15 pm, Police, after having received secret information that some persons staying in room No.205 at Hotel Vibhawan are indulging in illegal trade of narcotics, raided aforesaid room in the presence of independent witnesses and allegedly recovered 104 grams of heroin/chitta. Since occupants of the room namely Nikhil Sharma and Shiv Kumar were unable to render plausible explanation qua possession of aforesaid intermediate quantity of contraband, Police, after having completed necessary codal formalities, lodged FIR against them and since then, they are behind bars. Since aforesaid accused during investigation revealed to the Police that contraband recovered from them was supplied by present bail petitioner Vikramjeet Singh, Police also arrested bail petitioner on 18.01.2026 and since then, he is behind bars.

4. While fairly acknowledging factum with regard to completion of investigation, Mr. Anish Banshtu, learned Deputy Advocate General, states that though nothing remains to be recovered from the bail-petitioner, but keeping in view the gravity of offence alleged to have been committed by him, he does not deserve any leniency and as such, his prayer for grant of regular bail deserves outright rejection. He states that though contraband was not recovered from the conscious possession of the petitioner, but there is overwhelming evidence adduced on

record suggestive of the fact that bail petitioner is a drug peddler and he has been providing narcotics to some dealers, who further sell the same to young population of the State. To substantiate his aforesaid submission, Mr. Banshtu invited attention of this Court to the evidence collected on record by the prosecution suggestive of the fact that prior to recovery of 104 grams of contraband from the conscious possession of co-accused Shiv Kumar and Nikhil Sharma, above named person have transferred sum of Rs.7000/- in the bank account of the present bail petitioner through Google Pay. Mr. Banshtu further states that since petitioner herein is from the State of Punjab, it may not be in the interest of justice to enlarge him on bail, because in that event, he may not only flee from justice, but may again indulge in such activities and as such, prayer for grant of bail made on his behalf deserves to be rejected.

5. Having heard learned counsel for the parties and perused material available on record, this Court finds that intermediate quantity of contraband was never recovered from conscious possession of the bail petitioner, rather same was recovered from the conscious possession of co-accused Shiv Kumar and Nikhil Sharma, who allegedly disclosed to the Police that they purchased aforesaid quantity of contraband from the present bail petitioner for a sum of ₹7000/-. Since petitioner herein has been roped in the present FIR merely on the basis of

disclosure statement of co-accused, coupled with the judgment passed by the Hon'ble Apex Court in **Tofan Singh v. State of Tamil Nadu** (2021) 4 SCC 1, this Court is persuaded to agree with learned counsel representing the petitioner that petitioner herein could not be arrested merely on the statement made by co-accused. Moreover, this Court finds that on account of recovery of intermediate quantity of contraband, rigors of Section 37 of the Act are not attracted.

6. Hon'ble Apex Court in case **Tofan Singh** (supra), has categorically held that disclosure statement, if any, made under Section 67 of the NDPS Act, is inadmissible and same cannot be used as confessional statement in the trial of an offence under Section 67 of the Act. Relevant para of the aforesaid judgment reads as under:

“155.Thus, to arrive at the conclusion that a confessional statement made before an officer designated under section 42 or section 53 can be the basis to convict a person under the NDPS Act, without any non obstante clause doing away with section 25 of the Evidence Act, and without any safeguards, would be a direct infringement of the constitutional guarantees contained in Articles 14, 20(3) and 21 of the Constitution of India.

156.The judgment in Kanhaiyalal (supra) then goes on to follow Raj Kumar Karwal (supra) in paragraphs 44 and 45. For the reasons stated by us hereinabove, both these judgments do not state the law correctly, and are thus overruled by us. Other judgments that expressly refer to and rely upon these

judgments, or upon the principles laid down by these judgments, also stand overruled for the reasons given by us.

157. On the other hand, for the reasons given by us in this judgment, the judgments of Noor Aga (supra) and Nirmal are correct in law.

158. We answer the reference by stating:

(i) That the officers who are invested with powers under section 53 of the NDPS Act are “police officers” within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.

(ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act.”

7. The Hon’ble Apex Court in case titled **State by (NCB) Bengaluru v. Pallulabid Ahmad Arimutta and Anr**, Special Leave to Appeal (Crl) No. 242 of 2022 (arising out of diary No. 22702 of 2020) decided on 10.1.2022, again reiterated that confessional statement recorded under Section 67 of the NDPS Act, will remain inadmissible in the trial of an offence under the Act. Hon’ble Apex Court in this case upheld the order/judgment passed by the High Court of Karnataka granting bail to the accused arrested by the petitioner NCB on the basis of confessional/voluntary statement of the co-accused under Section 67 of the NDPS Act. Apart from above, Hon’ble Apex Court in the aforesaid judgment has held that CDR of some of the accused or the allegations of tempering of evidence

on the part of the respondents is an aspect that will be examined at the stage of the trial.

8. Hon'ble Apex Court and this Court in a catena of cases have repeatedly held that one is deemed to be innocent, till the time, he/she is proved guilty in accordance with law. In the case at hand, complicity, if any, of the bail petitioner is yet to be established on record by the investigating agency, as such, this Court sees no reason to let the bail petitioner incarcerate in jail for an indefinite period during trial, especially when nothing remains to be recovered from him. Apprehension expressed by learned Deputy Advocate General, that in the event of being enlarged on bail, bail petitioner may flee from justice or indulge in such offences again, can be best met by putting the bail petitioner to stringent conditions.

9. Needless to say, object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. Otherwise also, normal rule is of bail and not jail. Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

10. Hon'ble Apex Court in Criminal Appeal No. 227/2018, **Dataram Singh vs. State of Uttar Pradesh & Anr** decided on 6.2.2018 has held that freedom of an individual cannot be curtailed for indefinite period, especially when his/her guilt is yet to be proved. It has been further held by the Hon'ble Apex Court in the aforesaid judgment that a person is believed to be innocent until found guilty.

11. Hon'ble Apex Court in **Sanjay Chandra versus Central Bureau of Investigation** (2012)¹ Supreme Court Cases 49 has held that gravity alone cannot be a decisive ground to deny bail, rather competing factors are required to be balanced by the court while exercising its discretion. It has been repeatedly held by the Hon'ble Apex Court that object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative.

12. In **Manoranjana Sinh alias Gupta versus CBI**, (2017) 5 SCC 218, Hon'ble Apex Court has held that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise also, normal rule is of bail and not jail. Apart from above, Court has to keep in mind nature of accusations, nature of evidence in

support thereof, severity of the punishment, which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

13. The Apex Court in **Prasanta Kumar Sarkar** versus **Ashis Chatterjee and another** (2010) 14 SCC 496, has laid down various principles to be kept in mind, while deciding petition for bail viz. prima facie case, nature and gravity of accusation, punishment involved, apprehension of repetition of offence and witnesses being influenced.

14. In view of above, bail petitioner has carved out a case for himself, as such, present petition is allowed. Bail petitioner is ordered to be enlarged on bail, subject to furnishing bail bonds in the sum of Rs.2,00,000/- with one surety in the like amount, to the satisfaction of the learned trial Court, besides the following conditions:

- (a) *He shall make himself available for the purpose of interrogation, if so required and regularly attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;*
- (b) *He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;*
- (c) *He shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or the Police Officer; and*

(d) *He shall not leave the territory of India without the prior permission of the Court.*

15. It is clarified that if the petitioner misuses the liberty or violates any of the conditions imposed upon him, the investigating agency shall be free to move this Court for cancellation of the bail.

16. Any observations made hereinabove shall not be construed to be a reflection on the merits of the case and shall remain confined to the disposal of this petition alone. The petition stands accordingly disposed of.

17. A downloaded copy of this order shall be accepted by the learned trial Court, while accepting the bail bonds from the petitioner and in case, said court intends to ascertain the veracity of the downloaded copy of order presented to it, same may be ascertained from the official website of this Court.

(Sandeep Sharma)
Judge

April 16, 2026
(Rajeev Raturi)