IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CrMP(M) No.1089 of 2026
Decided on: 03.07.2026

Neeraj Singh .....Petitioner

Versus

State of Himachal Pradesh .....Respondent

Coram:
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? [1]

For the Petitioner	**:**	Mr. Prashant Sharma, Advocate.
For the Respondent	**:**	Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General. ASI Shashi, PS Ghumarwin, District Bilaspur, Himachal Pradesh, 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 Neeraj Singh, who is behind bars since 06.11.2025, for grant of regular bail in case FIR No.165/2025, dated 29.09.2025, under Sections 21 and 29 of ND & PS Act, registered at Police Station Ghumarwin, District Bilaspur, Himachal Pradesh.

2. Respondent/State has filed status report, perusal whereof reveals that on 29.09.2025 at 04:30 pm, Police party present near Toll Plaza, Baloh, Bilaspur, stopped one car

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

bearing No.T0825PB5265E, Honda Amaze, for checking. On inquiry, driver of the vehicle disclosed to the Police that vehicle in question is a Taxi and the same was hired from Amritsar to Kullu. Since persons sitting on the rear seat got perplexed and started making excuses, Police deemed it necessary to conduct their search as well as of the vehicle and allegedly, in the presence of independent witnesses, recovered one bag containing 518.4 grams of chitta/heroin. Since no plausible explanation ever came to be rendered on record qua possession of aforesaid quantity of contraband, Police, after having completed necessary codal formalities, lodged FIR detailed hereinabove and arrested both the occupants of the car, namely Abhi Kumar and Rahul. Since above named persons, during investigation, disclosed that contraband recovered from them was to be delivered to the persons namely Aditya and Girija Sharma, which was taken from the present bail-petitioner, Police also arrested Aditya and Girja Sharma, who further disclosed to the Police that they have deposited an amount of ₹1,42,500/- in the bank account given by the present bail-petitioner for the purchase of contraband. Co-accused Aditya disclosed to the Police that sum of ₹1,00,500/- was deposited by him in the bank account of Adhi Atwal. In the afore background, present bail petitioner, i.e. Neeraj Singh, also came to be roped in the present case and he is behind bars since

06.11.2025. Person namely Adhi Atwal, from whom co-accused Aditya had allegedly purchased contraband, already stands enlarged on bail vide order dated 17.04.2026 passed by this Court in Cr.MP(M) No.328 of 2026, titled as ***Adhi Atwal Vs. State of Himachal Pradesh.***

3. Since investigation in the case at hand is complete and nothing remains to be recovered from the bail petitioner, she has approached this Court in the instant proceedings for grant of regular bail.

4. Mr. Prashant Sharma, learned counsel representing the petitioner, vehemently argued that petitioner has been falsely implicated because there is no evidence adduced on record to demonstrate that the contraband was recovered from the conscious possession of the petitioner, rather, as per own case of prosecution, same was recovered from the conscious possession of co-accused namely Abhi Kumar and Rahul. He states that since petitioner herein has been arrested merely on the basis of statements made by co-accused Aditya and Girja Sharma, which are otherwise not admissible in law, petitioner, who has already suffered for more than eight months, deserves to be enlarged on bail. In support of his afore contention, Mr. Sharma, placed reliance upon the judgment passed by the Hon'ble Apex Court in ***Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1.***

5. While fairly acknowledging factum with regard to filing of Challan in the competent Court of law, Mr. Ravi Chauhan, 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, rather needs to be dealt with severely. While making this Court peruse status report, Mr. Chauhan, states that there is overwhelming evidence adduced on record suggestive of the fact that bail petitioner is a drug peddler, who in connivance with co-accused Aditya had been supplying drugs in various parts of the State. He states that co-accused Aditya, who allegedly transferred some amount in the bank account of the Adhi Atwal on the askance of the present bail-petitioner, lives with the present petitioner, as such, it cannot be said that petitioner has no knowledge with regard to illegal activities of Aditya. Mr. Chauhan further states that in past also, one case under ND & PS Act stands registered against the petitioner, which is sufficient to conclude that petitioner is a drug peddler and in the event of his being enlarged on bail, he may not only flee from justice, but may again indulge in such activities, as such, prayer for grant of bail made on his behalf deserves to be rejected.

6. Having heard learned counsel for the parties and perused material available on record, this Court finds that contraband was never recovered from conscious possession of the bail petitioner, rather same was recovered from the conscious possession of co-accused Abhi Kumar and Rahul, who allegedly disclosed to the Police that they had brought the contraband to Kullu on the askance of co-accused Aditya and Girja Sharma. Above named co-accused allegedly disclosed that they had purchased contraband from the present bail-petitioner Neeraj Singh. Question which needs to be determined at this stage is "whether statement of co-accused, if any, made, thereby involving the petitioner is sufficient to conclude the guilt of the petitioner or not?"

7. 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. No doubt, rigours of Section 37 of the Act are attracted, but bare perusal of provisions contained under Section 37 nowhere suggests that no bail can be granted in cases involving commercial quantity, rather in such cases, Court after affording

due opportunity of hearing to public prosecutor can proceed to grant bail, if it is satisfied that the bail petitioner has been falsely implicated and in the event of bail he/she will not indulge in such activities again. In the case at hand, at present, there is nothing to suggest that contraband was supplied by the bail petitioner and there is also no record to suggest that in past, he has been indulging in these activities.

8. While registering case against the present bail petitioner, Police has placed heavy reliance upon the alleged deposits made by Mr. Aditya in the bank account of Adhi Atwal, on the askance of the present bail-petitioner, but once it is not in dispute that contraband was not recovered from the conscious possession of the bail petitioner, mere deposit, if any, made in the bank account of the co-accused on the askance of the present bail-petitioner to purchase the contraband cannot be a ground to conclude his complicity, rather same can be established in totality of evidence collected on record by the prosecution. Reliance in this regard is placed upon judgment passed by the High Court of Kerala in ***Amal E Vs. State of Kerala, 2023:KER:39393***, whereby it was categorically held that financial transactions are not sufficient to connect the accused with the commission of a crime. Relevant Para of afore judgment reads as under:

> "From the perusal of the case records, it can be seen that, apart from the aforesaid transactions, there is nothing to show the involvement of the petitioners. It is true that the documents indicate the monetary transactions between the petitioners and some of the accused persons, but the question that arises is whether the said transactions were in connection with the sale of Narcotic drugs. To establish the same, apart from the confession statements of the accused, there is nothing. However, as it is an aspect to be established during the trial, I do not intend to enter into any finding at this stage, but the said aspect is sufficient to record the satisfaction of the conditions contemplated under section 37 of the NDPS Act, as the lack of such materials evokes a reasonable doubt as to the involvement of the petitioner."

9. 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.*
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> *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.*
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> *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.*
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> *158.We answer the reference by stating:*
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> *(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.*
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> *(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."*

10. 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.

11. 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 Additional 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. In view of above, bail petitioner has carved out a case for herself, 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.5,00,000/- with two sureties 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.

18. 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.

19. 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.

20. 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

July 03, 2026
(sunil)