

IN THE COURT OF SACHIN RAGHU, SPECIAL JUDGE-II,
HAMIRPUR, DISTRICT HAMIRPUR, (H.P).

B A Regn. No. : 148 of 2026
CNR No. : HPHA01-001766-2026
Date of Institution : 20.02.2026
Date of Decision : 17.06.2026

Amit Kumar son of late Shri Devraj, resident of Village Goeis, P.O.
Galore, Tehsil Galore, District Hamirpur, H.P.

.....Applicant/accused.

Versus

State of H.P. through Public Prosecutor, Hamirpur, H.P.

..... Respondent.

**APPLICATION UNDER SECTION 483 BHARTIYA
NAGARIK SURAKSHA SANHITA, 2023 FOR GRANT
OF BAIL.**

For the Applicant : Sh Anil Kumar, Advocate.
For the Respondent : Shri Subhash Chand, Learned APP.

ORDER :

This order will dispose of an application under Section 483 of B.N.S.S. moved by the applicant/accused for grant of bail in case F.I.R No. 28/2026 dated 16.02.2026 under Section 21 & 29 of Narcotic Drugs and Psychotropic Substances Act registered in Police Station Barsar, Hamirpur, District Hamirpur, H.P.

2. It is averred that applicant-accused has been arrested in above noted case F.I.R. and presently he is in judicial custody. It is alleged that the applicant-accused is an innocent person and has been falsely implicated in the case and he has nothing to do with the alleged offences as he has not committed any offence under such provision of law. Further the applicant has been arrested allegedly having in possession of 6 grams of Chitta which falls in the category of non-commercial quantity and the same was

allegedly found under the seat of vehicle bearing No. HP67-7433 whereas the applicant-accused was merely sitting on the front seat of the vehicle on left side and it is settled provisions of law that their presence in a vehicle from which recovery was affected does not establish conscious possession. The police has completed the investigation related to the applicant and also produced the challan before the Court which will taken time to decide the case-trial and no fruitful purpose shall be served by keeping the accused-applicant behind the bars. Further the applicant-accused is permanent resident of District Hamirpur, H.P. and there is no likelihood of the applicant accused fleeing from the court of justice and law. It is averred that the applicant-accused is very poor person and earns his livelihood by doing labour work and he has nothing to do with the commission of offence. The applicant is non-convict, however, **two criminal cases** of similar nature are pending trial in P.S. Barsar against him. Moreover the applicant-accused is ready and willing to abide by all the terms and conditions which shall be so imposed by the Court in the event of bail. Hence, it has been prayed that the application be allowed and applicant be released on bail.

3. Notice of this bail application is given to Id. P.P. who filed reply to bail application alleging therein that on 15.02.2026, ASI Sunil Kumar alongwith other police personnel had gone for patrolling duty in his private vehicle and were present at place Budhwin. At about 10 P.M., I.O./ASI Sunil Kumar received a secret information that at Village Lahra, Near CHC Galore, one Pick up bearing No. HP67-7433 is parked in which two persons are sitting who appeared to have consumed narcotics and if this Pick up is checked, then huge quantity of contraband can be recovered. On this, ASI Sunil Kumar took down this information in writing as per Section 42(2) of NDPS Act and sent it to SDPO Barsar through Ct. Aman. Thereafter, ASI Sunil Kumar alongwith police personnel went to the village Lahra in search of aforesaid vehicle. At 10.40

P.M, he called Ex.UP Pardhan G.P. Lahra namely Jeevan Parkash to come on the spot but he informed that his term is over and he is no more Up Pardhan. Thereafter, ASI Sunil Kumar found that near CHC Galore, Pick up bearing No. HP67-7433 is parked in which two persons were sitting. ASI Sunil Kumar stopped other vehicles on the spot but they refused to become witness. He also sent Ct. Sunil to nearby houses and requested the persons to become witnesses but they refused. At last from the police party, Ct. Sunil and Ct. Ashish were associated as witnesses and then name of two persons sitting in the pick up were asked who disclosed their names as Ravinder Singh @ Monu and Amit Kumar @ Chopra. Thereafter search of their pick up No. HP67-7433 was made and one blanket was found in the vehicle and on which foil paper, one piece of brown paper, one plastic packet and one rolled currency note of ₹ 10/- was recovered. When blanket was picked up, then one transparent packet was recovered from beneath the blanket and upon checking it, one solid white coloured substance was found which on checking was found to be Heroin. This white coloured substance i.e. Heroin was weighed on electronic weighing scale and it was found to be 6 grams of Heroin. Thereafter, this recovered contraband i.e. Heroin contained in polythene packet was put into cloth parcel and sealed with 5 seals of K. The remaining articles i.e. piece of transparent packet, brown coloured paper, foil paper and rolled currency note of ₹ 10/- were put into separate cloth parcels and sealed with seal impression K. The NCB-I form in triplicate were filled in and seal K was embossed on it and seal after use was handed over to witness Ashish Kumar. The sealed case property alongwith sample seal, NCB-I form in triplicate and pick up No. HP67-7433 were taken into police possession vide separate seizure memo but accused persons refused to sign the same. The photography and videography of the spot was got conducted through Ct. Pankaj through E-Sakshya app from government mobile. Thereafter, rukka was prepared and

sent to Police Station through Constable Pankaj and on which basis, F.I.R came to be registered.

4. During investigation, I.O. ASI Sunil Kumar prepared site plan and recorded the statements of witnesses. IO. produced the sealed case property to SHO P.S. Barsar who resealed the same with three seals of S and issued resealing certificate and the case property was deposited with MHC Ganni Khan. Thereafter accused Ravinder and Amit were arrested by the police. The information of arrest of accused Ravinder was given to his wife Neetu on her mobile and arrest information of accused Amit was given to his mother Sudesh Kumari. The inventory proceedings were got conducted from the Court and case property was sent to SFSL Junga.

5. During interrogation, accused Ravinder and accused Amit disclosed that on 14.02.2026, they alongwith accused Lalit Kumar went in his pick up No. HP67-7433 to Chandigarh to purchase Chitta/Heroin. This vehicle belongs to accused Lalit Kumar. They all stayed in Chandigarh and on next day, they purchased 10 grams of Heroin from unknown person at Balongi Road and paid ₹ 20,000/- for the same. On 15.02.2026, they returned to Galore and consumed Chitta and thereafter accused Lalit went to his house and they remained in the vehicle and consumed Chitta. Thereafter, they were apprehended by the police. On such disclosure by the aforesaid accused persons, accused Lalit was also arrested by police and his arrest information was given to his mother Smt. Bimla Devi.

6. During interrogation, accused Lalit disclosed that to purchase contraband, he transfers money through googlepay from his SBI Account in the account of accused Sunil resident of Kultheen. He disclosed that he has earlier also paid money several times by way of google pay in the account of one Vishal Yadav to purchase Heroin. His friend i.e. co-accused Sunil sends money in the account of Vishal which money is sent by him in the account of

Sunil and then he goes to Balongi, Chandigarh to purchase Heroin. Thereafter interrogation was made from co-accused Sunil who also disclosed that sometimes he used to transfer money in the account of Vishal Yadav at the instance of accused Lalit and sometime he also used to come with applicant Lalit to Balongi, Chandigarh to purchase Chitta. The co-accused Sunil disclosed that he has also got sold Chitta and in lieu of that he used to take Chitta from Lalit and consumed it. Upon such disclosure, co-accused Sunil was also arrested and his arrest information was given to his mother Meena.

7. During further interrogation, accused Sunil disclosed that on 19.02.2026, he transferred money in the account of Vishal which money was deposited in his account by accused Lalit. The accused Lalit had given him Chitta by purchasing the same from his own money and then he further sold it to one Tilak Raj. He disclosed that accused Tilak Raj deposited money in his account in February-March by way of google pay through his son Rishab and neighbourer Amarjeet. Thereafter, on 16.03.2026, accused Tilak Raj was also arrested and his arrest information was given to his wife Rano Devi. It is stated by the police that two other cases are registered against the accused-applicant Amit i.e. F.I.R. No. 116/25 under Section 21 of NDPS Act P.S. Barsar and FIR No. 134/25 under Section 21 of NDPS Act at PS Barsar are registered which are pending trial. Further the police challan in the present case has already been filed before the Court. It is stated that if accused is released on bail, then he can threaten the prosecution witnesses and prayed for dismissal of the bail application.

8. I have heard learned counsel for accused/applicant as well as Id. P.P. for State and have gone through the record carefully.

9. The learned counsel for the accused-applicant has submitted that accused is innocent and he has been falsely implicated. Moreover, there is nothing to be investigated and that the police investigation is complete and Challan in the present case

has already been presented before the Court. Hence, it is prayed that accused-applicant may be released on bail.

10. On the other hand, the learned Public Prosecutor has submitted that the applicant-accused deals in sale and purchase of contraband and in case the accused-applicant is released on bail, then he can threaten the witnesses and can indulge again in similar offences and prayed for dismissal of application.

11. The Hon'ble Apex Court in **Prasanta Kumar Sarkar vs Ashis Chatterjee and another (2010) 14 SCC 496**, has laid down the following principles to be kept in mind while deciding the petition for bail as under:-

- “(i) whether there is any prima-facie or reasonable ground to believe that the accused had committed the offence;
- (ii) Nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail.”

12. Hon'ble Apex Court in a case titled as **Sanjay Chandra vs Central Bureau of investigation, (2012) 1 SCC 40**, has held as under:-

“21. In bail applications, generally, it has been laid down from the earlier times that the 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. Deprivation of liberty must be considered a punishment, unless it is

required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.”

“22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases; 'necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses, if left at liberty, save in the most extraordinary circumstances.”

“23. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.”

13. Thus, it is absolutely clear from the law laid down by Hon'ble Apex Court in **Sanjay Chandra's case** that bail is a rule and committal to jail is an exception. The object of bail is to secure the appearance of the accused person at the trial by reasonable

amount of bail. The object of bail is neither punitive nor preventative. It is further held that deprivation of liberty must be considered a punishment, unless it can be required to ensure that accused person will stand their trial when called upon. It is also held by Hon'ble Apex Court that the Courts owe more than verbal respect to the principle that punishment begins after conviction and that every man is deemed to be innocent until duly tried and duly found guilty. Otherwise also bail is not to be withheld as punishment.

14. It is also by now well settled that freedom of an individual is of utmost importance and it cannot be curtailed for indefinite period. Till the time, guilt of the accused is not proved in accordance with law, he is deemed to be innocent.

15. In the present case, it is evident from the reply of prosecution that custodial interrogation of the applicant-accused is no more required by the police. As per notification of Central Government specifying the small and commercial quantity in relation to Narcotic Drugs and Psychotropic Substances, which is appended to the ND&PS Act, the quantity of Heroin upto 5 grams is specified to be small quantity and of 250 and above is specified to be commercial quantity. The Heroin alleged to have been recovered from the applicant-accused in this case is **6 grams**, which is in between small and commercial quantity, therefore, the rigor of Section 37 of the NDPS Act does not apply. Moreover, it is clear from police reply that investigation has been completed and police challan has already been filed in the Court. Further, the guilt of the applicant-accused is still to be proved in accordance with law and till the time guilt is not proved, he is deemed to be innocent. Neither the status report nor the record of the police file suggest that further custodial interrogation of the bail petitioner is required for the purpose of investigation. On the basis of the record, it cannot be said that the bail petitioner would in any manner impede the course and cause of justice.

16. As far as other two cases are registered against the accused-applicant Amit Kumar is concerned, then as per police reply, said cases are still pending trial. However, it is held by our Hon'ble High Court in case titled as Roop Lal Vs. State of H.P. Cr.Misc. Pet.(M) No. 1846 of 2023, dated 26.07.2023 that so far as registration of other cases against the applicant is concerned, this fact is also not sufficient to take away the presumption of innocence as admittedly no punishment has been awarded to the applicant by competent Court of law. It is also held that bail application cannot be rejected as a matter of punishment as punishment can only be inflicted after the trial. Thus, it is clear that registration of other cases is not sufficient to take away the presumption of innocence and it is no ground to reject the bail application. Since such cases are still pending and guilt if any, of accused-applicant is still to be proved in accordance with law, therefore presumption of innocence is available to the accused-applicant and he cannot be refused to be admitted on bail on such ground.

17. Moreover the other apprehension of the learned Public Prosecutor that the applicant-accused may threaten and allure the prosecution witnesses, if he is released on bail, can be well taken care of by imposing stringent conditions in the bail order.

18. Thus, keeping in view the guidelines laid down by Hon'ble Apex Court in judgment *supra*, I am of the considered view that the accused-applicant has carved out a case for himself to be granted bail. His long incarceration in the jail would not serve any useful purpose rather it will curtail his liberty which is not permissible under the law. Even otherwise also bail is rule and the jail is an exception. Therefore, in the interest of justice, the bail application is considered and allowed and the applicant-accused is admitted to bail subject to his furnishing personal bond in the sum of ₹ 1,00,000/- with one surety in the like amount to the satisfaction of learned Chief Judicial Magistrate, Hamirpur/ any learned Judicial Magistrate First Class stationed at Hamirpur, District Hamirpur, H.P.

subject to the following conditions:-

1. The bail petitioner shall join further investigation of the case as and when required by the I.O;
2. he/she shall not tamper with the prosecution evidence in any manner and shall not extend any threat, promise or inducement to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the police or the Court;
3. he/she shall not leave India without prior permission of the Court;
4. he/she shall attend the Court on each and every date of hearing during the trial; and
5. he/she shall not indulge in similar activities in future.

19. It is made clear that if any of the above conditions are violated, the prosecution shall be at liberty to approach the Court for cancellation of the bail of the bail petitioner. The observations made above are strictly for the disposal of this application and shall not effect the merit of the case. The application stands disposed of.

20. The files, after due completion be consigned to the record room.

Announced in the open court today on this 16th day of June, 2026.

(**Sachin Raghu**)
Special Judge-II,
Hamirpur, H.P.

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