

**IN THE COURT OF YAJUVENDER SINGH, SPECIAL JUDGE-
II, SHIMLA, H.P.**

[1]

CIS CNR No.	:	HPSH100054482026
CIS Case Type	:	Bail application.
CIS Regd. No.	:	377/2026.
Date of filing	:	04.07.2026.
Date of Decision	:	25.07.2026.

Sahil, son of Sh. Mohinder Singh, resident of village Panjola, post office Fagu Theog, Teshil Theog, District Shimla, HP.

.....Bail-applicant.

Versus

State of Himachal Pradesh.

.....Respondent.

[2]

CIS CNR No.	:	HPSH10004492026.
CIS Case Type	:	Bail application.
CIS Regd. No.	:	378/2026.
Date of filing	:	04.07.2026.
Date of Decision	:	25.07.2026.

Shiv Charan Mehto, son of Sh. Sadhu Mehto, resident of village Edelpri, post office Lungtu, Tehsil Tamar, District Ranchi, Jharkhand, presently residing at House No.105, Jagatpura SAS Nagar, Mohali, Pubjan.

.....Bail-applicant.

Versus

State of Himachal Pradesh.

.....Respondent.

For the bail applicants : Sh. Pawan Sharma, Id.
 Advocate.

For the respondent/State: Miss Suvrata, Id. App

Bail applications under Section 483 of Bharatiya Nagrik Suraksha Sanhita in Case F.I.R. No.84/2026 dated 21.06.2026, under Sections 21, 29 of NDPS Act registered at Police Station Theog, Shimla, H.P.

ORDER:

This common order shall dispose of the aforesaid bail applications, as each of the application pertains to the same F.I.R. No.84/2026, dated 21.06.2026, under Sections 21, 29 of NDPS Act registered at Police Station Theog, Shimla, H.P., and the applicants have been implicated for the alleged similar offence.

2. Briefly stated, the submissions of the bail applicants are that they are innocent and have been falsely implicated and the police arrested accused Sahil in this case on 21.06.2026 and

accused Shiv Charan Mehto on 29.06.2026. They deny any involvement in the offence. They submit that the investigation is complete, and nothing is to be recovered from them. Bail applicants undertake to comply with all conditions imposed by the Court if bail is granted to them, and are willing to furnish bonds to the Court's satisfaction. Based on these submissions, they request that bail be granted.

3. Conversely, bail applications are opposed by the state by filing a reply/status report, asserting that on 21.06.2026, the police party was on patrolling duty in their jurisdiction, and at about 5:00 p.m., when reached at Fagu, they received reliable secret information that one **Sahil Verma, son of Mohinder Verma (the bail applicant No.1)**, was engaged in the illegal trade of Chitta (Heroin) from his personal vehicle, a Bolero Camper bearing registration No. HP-36C-6896, on the Gallu–Snow Kingdom road. The informer further disclosed that if the said vehicle were searched immediately, a substantial quantity of Chitta could be recovered from it. Acting upon the information, the police first complied with the provisions of Section 42(2) of the NDPS Act by reducing the information into writing and forwarding it to the SDPO Theog. Thereafter, one Himanth was associated as an independent witness, and the police party proceeded towards the spot indicated by the informer. At a distance of about 200 meters before Snow Kingdom Adventure

Resort, the police noticed the suspected Bolero Camper bearing registration No. HP-36C-6896 parked on the roadside. One person was found sitting on the front passenger (conductor) seat of the vehicle. On inquiry, he disclosed his identity as Sahil Verma, son of Mahender Verma (the bail applicant No.1). He was informed about the secret information received against him. Thereafter, at about 5:27 p.m., the vehicle was searched by the police. During the search, a transparent plastic packet was recovered from the dashboard of the vehicle. Inside the transparent packet, a zip-lock pouch containing a cream-colored crystalline substance was found. On being questioned, Sahil Verma/bail applicant No.1 admitted that the substance was Chitta (Heroin). The recovered substance, along with the polythene packet, was weighed and found to be **8.890 grams**. The recovered contraband was then repacked in the same manner as it was found, and the other codal formalities regarding sealing and seizure of the case property were completed. The accused was arrested, a report was sent to the police station leading to an FIR. The contraband was resealed and forwarded to SFSL for forensic analysis, which confirmed it as **heroin/chitta**.

4. Per police report, during the investigation, it was established from the statement of the accused/bail applicant No. 1, Sahil, that he had purchased the recovered heroin from **bail**

applicant No. 2, Shiv Charan Mehto. Consequently, Bail Applicant No. 2, Charan Mehto, was arrested on 29.06.2026.

5. The investigating agency objects to the bail applications on the following grounds: firstly, that granting bail may pose a threat to witnesses; and secondly, that the applicants are likely to commit similar offence. With these averments, it is prayed that the bail applications be dismissed.

6. I have heard both the sides at length and I have perused the record carefully.

7. The object of bail is to secure the presence of accused at trial. In this contest, it is relevant to refer case reported in **Sanjay Chandra Vs Central Bureau of Investigation (2012) 1 SCC 49**, wherein the Hon'ble Apex Court has held as under:-

“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 can be 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. Detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity

demands that some unconvicted 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 India, 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. Apart from the question of prevention being the object of 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 to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.”

8. In case reported in **Data Ram Singh Vs State of Uttar Pradesh Appeal No. 227 of 18 {2018(2) AICLR (SC)204}**, the Hon'ble Apex Court has held as under:-

“2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific

offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society”.

9. Recently, Hon’ble Apex Court in case titled as **Satender Kumar Antil Versus Central Bureau of investigation, 2022 Supreme (SC) 588**, it has been observed that principle of bail is rule and jail is exception.

10. Ld. PP has vehemently argued that the involvement of both accused persons in the alleged offence is prima facie established from the statement of co-accused Sahil, and that further incarceration of both accused is necessary to secure the investigation and ensure proper trial proceedings. Conversely, learned counsel for the bail applicants has argued that the said arguments of the learned PP can be decided at the time of trial and not at this stage and since the investigation in the present case is complete, the bail applicants are entitled to bail.

11. I have considered their submissions. If the record is perused, it is observed that the involvement of the bail applicant No.2 Shiv Charan Metho, as alleged, is on the basis of statement of co-accused Sahil. It is not the case of the investigating agency that the contraband was recovered from the possession of bail applicant No.2. A confession made by a co-accused can not be taken as substantive piece of evidence against another co-accused. Reliance is placed upon '**Tofan Singh Vs State of Tamil Nadu 2021(4) SCC1**' where in it has been held that a confession made to police officer during investigation is hit by section 25 of the Indian Evidence Act and will not be saved by the provision of section 67 of NDPS Act.

12. Our Hon'ble High Court of HP in '**Shubham Sharma Vs. State of HP Cr.MP (M) No.387 of 2025 decided on 17.03.2025**' observed that a confession of the co-accused and the phone calls are not sufficient to deny bail to a person. Paras No.12 and 13 of the said Order are as under:

'12.It was held in Surinder Kumar Khanna vs Intelligence Officer Directorate of Revenue Intelligence 2018 (8) SCC 271 that a confession made by a co-accused cannot be taken as a substantive piece of evidence against another co-accused and can only be utilised to lend assurance to the other evidence. The Hon'ble Supreme Court subsequently held in Tofan Singh Versus State of Tamil Nadu 2021 (4) SCC 1 that a

confession made to the police officer during the investigation is hit by Section 25 of the Indian Evidence Act and is not saved by the provisions of Section 67 of the NDPS Act. Therefore, no advantage can be derived by the prosecution from the confessional statement made by the co-accused implicating the petitioner.

13. A similar situation arose before this Court in *Dinesh Kumar @ Billa Versus State of H.P.* 2020 Cri.L.J.4564, and it was held that a confession of the co-accused and the phone calls are not sufficient to deny bail to a person.'

13. Moreover, it is observed that such alleged facts have yet to be established on the merits in trial, and the presumption of innocence in favor of the bail applicants remains intact.

14. It is not in dispute that the alleged quantity recovered from the possession of the bail applicant Sahil, is **8.890 grams of Heroin**, which is intermediate quantity and therefore, the rigor of Section 37 of the NDPS, is not attracted in the present case. Furthermore, the status report omits any mention of a solid ground for the petitioners' detention. Given the quantity of heroin, further detention is unjustified.

15. Considering the guiding mandate referred supra, and also considering the fact that the rigor of section 37 of NDPS Act is not applicable to the facts of the present case as the alleged quantity of contraband recovered is less than commercial

quantity, and there is no previous history of bail applicants, I find no reasons to further detain the accused persons in custody. Hence, from the above, I find that there are no cogent reasons for digressing from the rule of bail in this case. The guilt of the bail applicants is yet to be proved and established in the trial and bail cannot be denied as punitive measure.

16. The assertions made by the police, stating that Bail Applicant No. 2 is a resident of another State and thus may abscond, and further alleging that both bail applicants may pose a threat to witnesses upon their release, can be sufficiently addressed through the imposition of stringent conditions. Accordingly, this Court is satisfied that the applicants have made a case for their bail. The bail applicants are willing to abide by any terms and conditions that may be imposed by this Court and are prepared to furnish bonds to the satisfaction of this Court.

17. Accordingly, taking into consideration all these facts and circumstances, particularly bail applicants incarceration in jail would not serve any purpose, and there is no previous criminal history of the bail applicants, their case for bail is fully justified. Hence, without commenting much on the merits of the case, the Court is of a view that the accused deserves to be enlarged on bail by imposing suitable conditions. Be it so, bail applications are allowed and the applicants/accused persons are ordered to be released on bail on their furnishing personal bond

to the tune of ₹ 1,00,000/-each, with one solvent surety each in the like amount to the satisfaction of Ld. ACJM/JMFC stationed at Theog, subject to the following conditions:-

(i)that the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing any fact to the Court or the police,

(ii)that the applicant shall not tamper with the prosecution evidence nor will try to win over the prosecution witness or terrorize in any manner,

(iii)that the applicant shall make himself available as and when required to do so by investigating agency or the Ld. court as the case may be,

(iv)that the applicant shall not leave India without the prior permission of this Court, and

(v)that the applicant will not commit similar offence.

(vi) that the applicant shall attend the Court in accordance terms and conditions contained in the bond.

18. Observations made here-in-above shall have no bearing on the merits of the case, as said observations are made only for the purpose of deciding the present bail application. To

be explicit, in case accused persons cause breach of any condition and repeat the commission of same or similar offence, the prosecution shall be at liberty to approach the court for cancellation of bail.

19. Criminal Alhmad is directed to forward a soft copy of the bail order to the Superintendent of concerned Jail through e-mail for information and necessary action with the direction to make necessary entry in the relevant register/ e-prison software. In case the applicants are not released within a period of seven days from the grant of bail, the Superintendent of the jail is to inform the said fact to the Secretary, DLSA, Shimla for providing legal assistance to the applicants. Bail applications stands disposed of. **Authenticated copy of this order be placed on concerned bail-application No.378 of 2026.** Files, after completion, be tagged with the concerned F.I.R/challan for records.

Announced in the open Court today of this **25th day of JULY, 2026.**

Raj-

[Yajuvender Singh]
Special Judge-II, Shimla (HP)