

Pritish vs. State of HP.

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

CIS CNR No.	:	HPSH10004898-2026
CIS Case Type	:	Bail application.
CIS Regd. No.	:	341/2026.
Date of filing	:	23.06.2026.
Date of Decision	:	25.07.2026.

Pritish, son of Sh. Sanjeev, resident of Gujndali, post office and Tehsil Tikkar District Shimla, HP.

.....Bail-applicant.

Versus

State of Himachal Pradesh.

.....Respondent.

Bail application under Section 483 of Bharatiya Nagrik Suraksha Sanhita in Case F.I.R. No.56/2026 dated 28.04.2026, under Sections 21 of NDPS Act registered at Police Station Theog, Shimla, H.P.

For the bail applicant : Ms.Shailja Sood, Id. Dy. LADCS.

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

O R D E R:

By way of the present application filed under Section 483 of the Bharatiya Nagrik Suraksha Sanhita (BNSS), the bail

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applicant seeks bail in connection with F.I.R. No.56/2026 dated 28.04.2026, under Sections 21 of NDPS Act registered at Police Station **Theog**, Shimla, H.P.

2. Briefly stated, the submissions of the bail applicant, is that, he has been falsely implicated and arrested in this case on 28.04.2026, and deny any involvement in the offence. He submits that the investigation is complete, and nothing is to be recovered from him. He undertakes to comply with all conditions imposed by the Court if bail is granted to him, and is willing to furnish bonds to the Court's satisfaction. Based on these submissions, he requests that bail be granted.

3. Reply/status report has been filed by the state to this bail application.

4. Per status report, On April 28, 2026, a police team, led by ASI Rakesh Kumar and HC Nishant, left the Theog Police Station around 11:05 a.m. for routine patrol in the areas of Thew, Sandu Devi Morh, Mangal Devi, Prem Ghat, Rai Ghat, Fagu, and nearby localities. At approximately 1:15 p.m., when the team was near Rahi Ghat Bypass, close to a liquor shop, they noticed a person walking towards Theg. As soon as the individual saw the police, he appeared confused, suddenly turned back, and tried to run away. During his hurried escape, he took an object out of the right pocket of his black trousers and threw it into the roadside drain. The police officials gave chase and managed to catch him after covering about 15 to 20 meters. They then brought him

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back to the spot where he had discarded the item. Police also associated independent witness, Mr. Sumit Verma, after explaining the circumstances of the case. In the presence of the witness, the suspect revealed his identity as Prateesh, son of Sanjeev, a resident of Village Gudanli, Tehsil Tikar, District Shimla, Himachal Pradesh (the bail applicant). The police then retrieved and examined the object thrown into the drain. It was a transparent plastic pouch tied with a knot. When opened, the pouch contained a light yellowish-brown, powdery, solid substance. Based on its appearance and the suspect's identification, the substance was suspected to be heroin (chitta). The recovered substance was weighed and found to weigh **7.230 grams**. Thereafter, the contraband was seized with six seals impression 'T' after being placed in a cloth parcel. All formalities, including videography and photography, were completed at the scene. The accused were 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**.

5. The investigating agency objects to the bail application on the following grounds: firstly, that granting bail may pose a threat to witnesses; and secondly, that the applicant is likely to commit similar offence and can sell heroin to youngster. Additionally, the accused has not disclosed the backlinks and forward links of the recovered contraband, and the

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investigation into these links is still pending. With these averments, it is prayed that the bail application be dismissed.

6. Ld. Counsel for the bail applicant has submitted that the investigation is complete and presence of bail applicant is no more required and therefore, he be released on bail.

7. On the other hand, Ld. PP has objected the bail on the ground of the nature of the offence and its gravity. He has submitted that, if the bail applicant is released on bail, he will again involve in similar kind of activity.

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

9. It is not in dispute that the alleged quantity recovered from the possession of the bail applicant is **7.230 grams of Heroin**, which is intermediate quantity and therefore, the rigor of Section 37 of the NDPS, is not attracted in the present case. It is also not disputed that the presence of the bail applicant is no more required for the purpose of investigation and currently he is lodged in judicial custody.

10. 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

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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

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of imprisonment as a lesson.”

11. 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”.

12. 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.

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13. Ld. Counsel for the bail applicant submits that the challan in the present case has been filed, a fact duly acknowledged by the learned Public Prosecutor. Perusal of the main case file shows that same is fixed for 01.08.2026, for removing office objections. Consequently, the plea advanced by the police in their report, asserting that the investigation regarding backlinks and forward links remains pending, is unfounded and unjustified. There is no previous criminal history of the bail applicant. Once, the bail applicant/accused has been in custody since 28.04.2026 has accordingly made a case for grant of bail.

14. 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, I find no reasons to further detain the accused in custody. The guilt of the accused is yet to be established during the trial on the touchstone of evidence. Custodial interrogation is no more sought by the investigating agency, meaning thereby that the presence of the accused is not required for the purpose of further investigation.

15. The bail applicant is permanent resident of the State of HP and except assertions, there is nothing on the file to justify that the bail applicant will not be available for the trial.

16. The police assertions that the bail applicant may flee

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from trial, and could re-engage in similar offences, can be addressed by imposing stringent conditions on the bail applicant. He is willing to comply with these conditions if released on bail, including furnishing bonds.

17. 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 application is **allowed** and the applicant/accused is ordered to be released on bail on his furnishing personal bond to the tune of **₹ 1,00,000/- with one surety in the like amount** to the satisfaction of **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,

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(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 person cause breach of any condition and repeat the commission of same or similar offence, the prosecution shall be at liberty to to approach the court for cancellation of bail.

19. Criminal Ahlmad 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 applicant. Bail application stand disposed of. Papers be tagged with the concerned chargesheet/FIR for

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records.

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

Raj-

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