



**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

Cr.MP(M) No.590 of 2026

Reserved on:- 24.04.2026

Date of Decision: 30.04.2026

Anku

...Applicant

Versus

State of H.P.

....Respondent

Coram:

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?¹

For the applicant : Mr. Rakesh Kumar
Chaudhary and Mr. Panku
Choudhary, Advocates.

For the respondent : Mr. Mohinder Zharaick and
Mr. H.S. Rawat, Additional
Advocates General, with Mr.
Rohit Sharma, Deputy
Advocate General, assisted by
ASI Manoj Kumar, Police
Station Baddi, District Solan,
H.P.

Virender Singh, Judge

By way of the present application, filed under
Section 483 of the Bharatiya Nagarik Suraksha Sanhita,
2023 (hereinafter referred to as 'BNSS'), applicant-Anku
has sought his release, on bail, during the pendency of
the trial, arising out of **FIR No.55 of 2024, dated
11.03.2024**, registered **under Sections 20 & 29 of the**

¹ Whether reporters of Local Papers may be allowed to see the judgment?

**Narcotic Drugs & Psychotropic Substances Act**

(hereinafter referred to as the 'NDPS Act'), with **Police Station, Baddi, District Solan, H.P.**

2. According to the applicant, the police has arrested him, in the above titled case, which has been registered, on the false accusation.

3. According to the applicant, he is innocent person and has no concern, whatsoever, with the crime in question. No recovery has been effected from the applicant and during investigation, even no money transaction was found to connect the applicant with the crime in question.

4. The investigation, in the present case, is stated to be completed. The applicant is in judicial custody for the last one year and four months.

5. According to the applicant, since he is not required by the police for investigation of the case, as such, no useful purpose would be served by keeping the applicant in judicial custody.

6. According to the applicant, he had earlier tried his luck by moving similar bail application, before the



Court of learned Sessions Judge-cum-Special Judge, Solan, by way of filing bail application, bearing No.119 of 2025, which was dismissed as withdrawn, vide order dated 01.04.2025.

7. Thereafter, the applicant has approached this Court, by way of Cr.MP(M) No.2722 of 2025, which was also dismissed as withdrawn, vide order dated 17.11.2025.

8. Subsequently, the applicant, has approached this Court, by way of Cr.MP(M) No.1433 of 2025, which was also dismissed as withdrawn, vide order dated 26.06.2025.

9. The applicant has thereafter, again approached the Court of learned Sessions Judge-cum-Special Judge, Solan, by way of filing bail application, bearing No.01-S/22 of 2026. However, the same was dismissed, vide order dated 05.01.2026.

10. Apart from this, Mr. Rakesh Kumar Chaudhary and Mr. Panku Choudhary, Advocates, appearing for the applicant, has given certain undertakings, on behalf of the applicant, for which, the



applicant is ready to abide by, in case, ordered to be released on bail, during the pendency of the trial.

11. On the basis of the above facts, a prayer has been made to allow the bail application.

11.1. When, put to notice, the police has filed the status report, disclosing therein, that on 11.03.2024, the then, Inspector, Incharge, Rakesh Rai of Police Station Baddi, along with the police officials, was on patrolling duty and duty to detect the crime relating to excise and narcotics. At about 10:05 AM, when, he was present on the Baddi-Nalagarh road, near hotel Amarpali, then, he received a secret information qua the fact that two persons, namely Dinesh Kumar and Ajay Kumar, residents of Chamba, are coming there in Vehicle No.HP-81-2679 to sell charas. Both of them, were stated to be residing in the rented accommodation of Gurdas Singh, at village Khawdia-Sandoli. As per the information, if, the raid is conducted, then, a large quantity of charas could be recovered from the said vehicle. The said information was found to be authentic and reliable



11.2. According to the IO, in case, he obtains, the search warrant or authorization letter, then, delay could be caused and contraband could be removed from there. As such, he has prepared the information under Section 42(2) of NDPS Act, and submitted same to the Additional Superintendent of Police, Baddi, through Honorary ASI Rakesh Kumar, No.191. Thereafter, Ex-Pradhan Bhag Singh of Gram Panchayat, Haripur Sandoli, was requested telephonically to come to the spot. They had reached the rental accommodation of Dinesh Kumar and Ajay Kumar at Village Khawdia-Sandoli, where, Ex-Pradhan, Bhag Singh and Gurmail Singh, were present. Both of them, were apprised about the secret information. In front of double storeyed building, Vehicle No.HP-81-2679, was found parked. Two young men were found sitting on the front seat, whereas, in the rear seat, something had been concealed with the help of blanket.

11.3. The IO has given his personal identification to the above two young men. On inquiry, the person, who was sitting on the wheels, disclosed his name, as Dinesh Kumar and the person sitting on the other side, disclosed



his name, as Ajay Kumar, both residents of District Chamba. Both the above persons, were also apprised about the secret information, which the IO had received. Thereafter, the IO, and raiding party had given their personal search to the above persons and vehicle was searched.

11.4. During search of the vehicle, under neath, the multi coloured blanket, a black-blue coloured rucksack, was found containing 20 packets rapped with cellotape. After cutting the cellotape, those packets were opened, which, on opening, were found containing ball shaped and stick shaped black substance, which, on the basis of experience, was found to be charas. On inquiry, both accused Dinesh Kumar and Ajay Kumar, also confirmed the said fact. Both of them had stated that they had brought the said contraband, by using Vehicle No.HP01K-7811, On weighment, the said charas was found to be 10.200 kilograms. In the packets of the said rucksack, a cloth envelope was found, which opening was found containing passbook of Punjab National Bank, bearing Account No.2216000100457387. The said



passbook was in the name of Sher Singh son of Shri Ganga Ram R/o Malana Kullu. The contraband, was taken into possession. Other codal formalities were completed and rukka was prepared, upon which, FIR in question was registered and the above two accused persons, were arrested.

11.5. Both the accused persons were produced, before the Court on 12.03.2024, from where, they were remanded to police custody for five days. The contraband was produced before the Court of learned JMFC, Nalagarh, where, the proceedings under Section 52A of NDPS Act, were got conducted.

11.6. During investigation, accused Dinesh Kumar, made a statement under Section 67 of NDPS Act, and on his demarcation, the Vehicle No.HP01K-7811 was recovered. Accused Dinesh Kumar, also identified a place at village Tareda and disclosed that at this place, Anku (applicant) had handed over the chars to them. The said fact was documented.

11.7. During investigation on 17.03.2024, the service provider was requested to provide the CDRs of the



mobile phone of the accused persons. On analysis, it was found that accused Dinesh and Anku had talked to each other, during the night hours of 10/11.03.2024. As per CDRs, Anku (applicant), during the night hours of 10/11.03.2024, remained in contact with two other mobile phones. Efforts were made to nab those persons at village Pookhri-Sainj, but, they were not found. On 19.03.2024, during inquiry, it was found that the Taxi No.HP01K-7811, is owned by Dassi Devi wife of Sher Singh, village Malana, District Kullu, H.P., however, she was also not found.

11.8. During investigation, it was found that the Vehilce No.HP-81-2679 was registered in the name of Anku (applicant). On 15.01.2025, a secret information was received, presently Anku is in judicial custody in Dharamshala, Jail. During investigation, it was found that he was in judicial custody in FIR No.250 of 2024, dated 08.11.2025, registered under Sections 20 and 29 of NDPS Act, with Police Station, Nurpur. Thereafter, his production warrants, were obtained and he was produced before the Court of learned JMFC, Nalagarh.



His custody was transferred, in the present case, and he was arrested, in this case.

11.9. During the police remand, applicant-Anku got recorded his statement, under Section 67 of NDPS Act, disclosing therein, that he can identify the place at village Tareda Kullu, where, in the intervening night of 10/11.03.2024, he has called his nephew Ajay and Dinesh. Thereafter, he has requested Ajay and Dinesh to do recce towards Baddi side and charas was put in the vehicle of Dinesh, who has followed him, upon which, Section 25 of NDPS act, was added, in this case.

11.10. After completion of the investigation, charge sheet has been filed. There are total 24 prosecution witnesses, out of which, 8 have been examined and the case is now listed for PWs on 04.05.2026.

11.11. Apart from the present case, FIR No.250 of 2024, dated 08.11.2024, registered under Sections 20 and 29 of NDPS Act, with Police Station Nurpur is also stated to be registered against the applicant.

12. On the basis of the above facts, a prayer has been made to dismiss the application.



13. The contraband allegedly recovered, in the present case, falls within the definition of 'commercial quantity.' It is no longer res-integra, that while deciding the question of bail, involving the commercial quantity of the contraband, it is incumbent upon the Court to record the findings, which should be more than prima-facie findings, with regard to the existence of twin conditions, as enumerated, under Section 37(b)(ii) of the NDPS Act. Without recording the findings, with regard to the fact that the accused is not guilty of such offence and while on bail, he is not likely to commit any offence, an accused involved, in the commercial quantity of contraband cannot be released on bail.

14. In this case, Anku (applicant) has not been arrested, nor, his name has been found mentioned, in the secret information, which, the IO had allegedly received. As per the secret information, accused Dinesh Kumar and Ajay Kumar, residents of District Chamba, are in the business of selling charas. Admittedly, he was not nabbed, along with two other accused persons and his name found figured in the alleged disclosure, made



by Dinesh Kumar. Admittedly, at that time, when, on 14.03.2024, accused Dinesh Kumar, allegedly revealed the name of Anku, he was in police custody, as such, whatsoever, deposed by him is not admissible, in evidence and the same cannot be taken into consideration to culminate him, in the present case.

15. Being guided, by the above settled proposition of law, now, this Court would proceed further to determine, as to whether, the applicant is able to satisfy the judicial conscience of this Court, upon which, those findings could be recorded, in his favour to meet out the mandatory requirement of Section 37(b)(ii) of NDPS, Act.

16. So far as the CDRs allegedly showing the role of accused Dinesh and Anku, on the intervening night of 10/11.03.2024 are concerned, no reliance could be placed.

17. The CDRs can only provide information, like Caller ID duration and Cell Tower Details, however, they do not capture the substance of the conversation itself. These are the call record details, which are the metadata (data about data) about the call and the same is totally



different from call recording, which offers direct evidence of the communication, including specific words spoken and context of the conversation, which can be crucial, for deciding the matter.

18. So far as the statement of the accused recorded, under Section 67 of NDPS Act, are concerned, the same cannot be taken into consideration against the applicant, in view of the law laid down by Hon'ble Supreme Court in '**Tofan Singh versus State of Tamil Nadu**', reported in (2021) 4 Supreme Court Cases 1, the said statement cannot be taken into account, in order to convict the accused, under the provisions of NDPS Act. Relevant paragraph 158.1 of the judgment is reproduced as under:

“158.1 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.”

19. In view of the above, this Court is of the view that there is no hesitation for this Court, to record the



findings, in favour of the applicant, qua, the fact that he is not guilty of such offence and while, on bail, he is not likely to commit any offence.

20. So far as the second condition is concerned, reasonable conditions can be imposed, upon the applicant, in case, he is ordered to be released on bail.

21. Considering all these facts, this Court is of the view that the present bail application is liable to be allowed and is accordingly allowed.

22. Consequently, the applicant is ordered to be released, on bail, in case **FIR No.55 of 2024, dated 11.03.2024**, registered **under Sections 20 & 29 of the NDPS Act**, with **Police Station, Baddi, District Solan, H.P.**, on his furnishing personal bond in the sum of Rs.1,00,000/-, with two sureties of the like amount, to the satisfaction of the learned trial Court.

23. This order, however, shall be subject to the following conditions:-

a) Applicant shall 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) Applicant shall not tamper with the prosecution evidence nor hamper the



investigation of the case in any manner whatsoever;

c) Applicant shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or the Police Officer, and

d) Applicant shall not leave the territory of India without the prior permission of the Court.

e) The applicant shall furnish affidavit, in the first week of every month, before the learned trial Court, disclosing therein that he has not been named, as accused, in any crime, during that period, till the completion of trial.

24. Any of the observations, made hereinabove, shall not be taken, as an expression of opinion, on the merits of the case, as these observations are confined, only to the disposal of the present bail application.

25. It is made clear that respondent-State is at liberty to move an appropriate application, in case, any of the bail conditions is found violated by the applicant.

26. The Registry is directed to forward a soft copy of the bail order to the Superintendent of Jail, Sub Jail, Nalagarh, District Solan, Himachal Pradesh, through e-mail, with a direction to enter the date of grant of bail in the e-prison software.



27. In case, the applicant is not released within a period of seven days from the date of grant of bail, the Superintendent of Jail, Sub Jail, Nalagarh, District Solan, Himachal Pradesh, is directed to inform this fact to the Secretary, DLSA, Solan. The Superintendent of Jail, Sub Jail, Nalagarh, District Solan, Himachal Pradesh, is further directed that if the applicant fails to furnish the bail bonds, as per the order passed by this Court, within a period of one month from today, then, the said fact be submitted to this Court.

(Virender Singh)
Judge

April 30, 2026
(subhash)