



2026:HHC:31215

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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.MP (M) No. : 1212 of 2026

Reserved on : 27.07.2026

Decided on : 28.07.2026

Uploaded on : 28.07.2026

Harshit Sharma

...Applicant

Versus

State of Himachal Pradesh

...Respondent

Coram

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

Whether approved for reporting?¹

For the applicant : Mr. Yashveer Singh Rathore,
Advocate.

For the respondent : Mr. Tejasvi Sharma & Mr. Mohinder
Zharaick, Additional Advocates
General with Ms. Ranjna Patial &
Ms. Avni Kochhar Mehta, Deputy
Advocates General.

Virender Singh, Judge

Applicant-Harshit Sharma, has filed the present application, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the 'BNSS'), with a prayer to release him on bail, during the pendency of trial, arising out of **FIR No.46 of 2024, dated**

¹ *Whether Reporters of local papers may be allowed to see the judgment? Yes.*



04.04.2024, registered, **under Sections 20, 25 and 29 of the Narcotic Drugs & Psychotropic Substances Act** (hereinafter referred to as the 'NDPS Act'), with **Police Station Palampur, District Kangra, H.P.**

2. According to the applicant, the FIR is outcome of a concocted story, by the prosecution, which is highly improbable and is highly suspicious, having no truth in it. According to the applicant, the grounds of detention were not communicated to him.

3. It is the further case of the applicant that he has no role in the commission of the alleged crime, as he neither was instrumental behind the arrangement and transportation of contraband, nor had ever any communication pertaining to sale and purchase.

4. As per the applicant, he is a taxi driver, by profession. Neither, he had knowledge about the luggage of co-accused, nor, he could ask from the passenger, as to what was he carrying with him.

5. Investigation, in the present case, is stated to have been completed. According to the applicant, the trial,



in the present case, has been unduly delayed, for the last two years and three months.

6. All these facts have been highlighted to show that the custodial interrogation of the applicant is no longer required by the Police, in this case.

7. The applicant has also tried his luck by moving similar applications, before learned Special Judge-II, Kangra at Dharamshala, however, his applications were dismissed, vide order, dated 29th April, 2024 and 27th November, 2024. The applicant has moved similar applications, bearing Cr.MP (M) Nos.386 of 2025 & 2204 of 2025, before this Court, which were also dismissed on 13.03.2025 and 23.09.2025.

8. On the basis of the above facts, Mr. Yashveer Singh Rathore, Advocate, appearing for the applicant, has given certain undertakings on behalf of the applicant, for which, the applicant is ready to abide by, in case, the applicant is ordered to be released on bail, during the course of the trial.

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



10. When put to notice, the police has filed the status report, disclosing therein, that on 03.04.2024, at about 10.15 p.m., HC Sudesh Kumar No.79, along with other police officials, was on patrolling duty to detect the crime relating to excise and Narcotic drugs and was present at a place known as Upper Daad, at Chamunda Palampur road. In the meanwhile, they noticed a white coloured Alto Car bearing registration No.HP01D-8247, being driven by its driver, coming from Chamunda side.

10.1. The driver of the said car, on noticing the vehicle of the police, at once, turned his vehicle on the link road. Since, the link road was not so wide, as such, he could drive the same only upto 20 meters.

10.2. The activities of the driver raised suspicion in the mind of the I.O., that he might be having stolen articles in his vehicle, upon which, the I.O. and other police officials reached at the place, where, the vehicle was stopped by its driver.

10.3. Since, the I.O., intended to search the vehicle, on the suspicion that some stolen articles might be there, as such, he has associated two independent witnesses



passing through there; namely Kalyan Chand and Sunny Kumar, after apprising them about the factual position.

10.4. Thereafter, the person, who was on the wheel, was inquired, who on inquiry disclosed his name as Harshit Sharma (applicant) and the person sitting on the front seat disclosed his name as Dimpi Dadhwal. Both the persons were directed to remain seated in the vehicle with a direction to switch on the cabin light.

10.5. When, the light was switched on, then the I.O. noticed a small bag, lying near the feet of Dimpi Dadhwal, which, on opening, was found to be containing Charas and on weighing, it was found to be 1 kilogram 30 grams.

10.6. Consequently, the said contraband was taken into possession and rukka was sent to the Police Station for registration of the FIR. Accused were arrested.

11. After completion of the codal formalities, the contraband, so recovered, was sent to SFSL Junga, for analysis.

12. During investigation, accused Dimpi Dadhwal, has disclosed that he is addict of Charas. He has purchased the Charas from a person of Chintpurni and he



has to sell the same, in order to repay his bank loan. He has hired the taxi for Palampur, in order to sell the same and for that purpose, accused Harshit Sharma (applicant) came with him.

13. After, receiving positive report from the SFSL, Junga, the police has filed the final report against the accused, before the Court of learned Sessions Judge, Kangra at Dharamshala and the charges have been framed. Now, the case is listed for PWs on 8th and 9th October, 2026.

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

15. The accused (applicant), in the present case, has been arrested under the provisions of NDPS Act. The legislature, in its wisdom, has enacted this statute to curb the menace of drug abuse with stringent punishment. Certain conditions are there, in the NDPS Act, in the shape of Section 37 of NDPS Act, which are, in addition to the conditions, as contained in Section 483 BNSS. Before releasing a person on bail, those conditions, as enumerated under Section 37 of the NDPS Act, are to be



fulfilled, if the accused has been arrested for the offence, involving commercial quantity of contraband.

16. It has been held that the contraband allegedly recovered from the possession of the accused falls in the category of 'commercial quantity', as per the Notification issued by the Central Government, then, the rigors of Section 37 of the NDPS Act come into play.

17. In a recent decision, in case titled as **Narcotics Control Bureau versus Mohit Aggarwal**, reported in **AIR 2022 SC 3444**, the Hon'ble Supreme Court has reiterated the earlier view regarding compliance of the conditions, as enumerated in Section 37 of the NDPS Act. The relevant paras 10 to 15 of the judgment are reproduced, as under:

"10. The provisions of Section 37 of the NDPS Act read as follows:

"[37. Offences to be cognizable and non-bailable.-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)-

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless-



(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.

11. It is evident from a plain reading of the non-obstante clause inserted in sub-section (1) and the conditions imposed in subsection (2) of Section 37 that there are certain restrictions placed on the power of the Court when granting bail to a person accused of having committed an offence under the NDPS Act. Not only are the limitations imposed under Section 439 of the Code of Criminal Procedure, 1973 to be kept in mind, the restrictions placed under clause (b) of sub-section (1) of Section 37 are also to be factored in. The conditions imposed in sub-section (1) of Section 37 is that (i) the Public Prosecutor ought to be given an opportunity to oppose the application moved by an accused person for release and (ii) if such an application is opposed, then the Court must be satisfied that there are reasonable grounds for believing that the person accused is not guilty of such an offence. Additionally, the Court must be satisfied that the accused person is unlikely to commit any offence while on bail.

12. The expression “reasonable grounds” has come up for discussion in several rulings of this Court. In “Collector of Customs, New Delhi v. Ahmadaliev Nodira”, (2004) 3 SCC 549, a decision rendered by a Three Judges Bench of this Court, it has been held thus:-

“7. The limitations on granting of bail come in only when the question of granting bail arises on merits. Apart from the grant of opportunity



to the Public Prosecutor, the other twin conditions which really have relevance so far as the present accused respondent is concerned, are: the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. The conditions are cumulative and not alternative. The satisfaction contemplated regarding the accused being not guilty has to be based on reasonable grounds. **The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence.”** [emphasis added]

13. The expression “reasonable ground” came up for discussion in “State of Kerala and others Vs. Rajesh and others” (2020) 12 SCC 122 and this Court has observed as below:

“20. The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. **The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence.** In the case on hand, the High Court seems to have completely overlooked the underlying object of Section 37 that in addition to the limitations provided under the CrPC, or any other law for the time being in force, regulating the grant of bail, its liberal approach in the matter of bail under the NDPS Act is indeed uncalled for.” [emphasis added]



14. To sum up, the expression “reasonable grounds” used in clause (b) of Sub-Section (1) of Section 37 would mean credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Dove-tailed with the aforesaid satisfaction is an additional consideration that the accused person is unlikely to commit any offence while on bail.

15. We may clarify that at the stage of examining an application for bail in the context of the Section 37 of the Act, the Court is not required to record a finding that the accused person is not guilty. The Court is also not expected to weigh the evidence for arriving at a finding as to whether the accused has committed an offence under the NDPS Act or not. The entire exercise that the Court is expected to undertake at this stage is for the limited purpose of releasing him on bail. Thus, the focus is on the availability of reasonable grounds for believing that the accused is not guilty of the offences that he has been charged with and he is unlikely to commit an offence under the Act while on bail.”

18. The Hon’ble Supreme Court, in a recent decision, in **Criminal Appeal No.5544 of 2024**, titled as **Narcotics Control Bureau versus Kashif, (2024 INSC 1045)**, has again reiterated the view, as taken in Mohit Aggarwal’s case supra. Relevant paragraphs 8 and 39 of the judgment, are reproduced, as under:-



8. There has been consistent and persistent view of this Court that in the NDPS cases, where the offence is punishable with minimum sentence of ten years, the accused shall generally be not released on bail. Negation of bail is the rule and its grant is an exception. While considering the application for bail, the court has to bear in mind the provisions of Section 37 of the NDPS Act, which are mandatory in nature. The recording of finding as mandated in Section 37 is a sine qua non for granting bail to the accused involved in the offences under the said Act. Apart from the granting opportunity of hearing to the Public Prosecutor, the other two conditions i.e., (i) the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that (ii) he is not likely to commit any offence while on bail, are the cumulative and not alternative conditions.

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39. The upshot of the above discussion may be summarized as under:

(i) The provisions of NDPS Act are required to be interpreted keeping in mind the scheme, object and purpose of the Act; as also the impact on the society as a whole. It has to be interpreted literally and not liberally, which may ultimately frustrate the object, purpose and Preamble of the Act.

(ii) While considering the application for bail, the Court must bear in mind the provisions of Section 37 of the NDPS Act which are mandatory in nature. Recording of findings as mandated in Section 37 is sine qua non for granting bail to the accused involved in the offences under the NDPS Act.



(iii) The purpose of insertion of Section 52A laying down the procedure for disposal of seized Narcotic Drugs and Psychotropic Substances, was to ensure the early disposal of the seized contraband drugs and substances. It was inserted in 1989 as one of the measures to implement and to give effect to the International Conventions on the Narcotic drugs and psychotropic substances.

(iv) Sub-section (2) of Section 52A lays down the procedure as contemplated in sub-section (1) thereof, and any lapse or delayed compliance thereof would be merely a procedural irregularity which would neither entitle the accused to be released on bail nor would vitiate the trial on that ground alone.

(v) Any procedural irregularity or illegality found to have been committed in conducting the search and seizure during the course of investigation or thereafter, would by itself not make the entire evidence collected during the course of investigation, inadmissible. The Court would have to consider all the circumstances and find out whether any serious prejudice has been caused to the accused.

(vi) Any lapse or delay in compliance of Section 52A by itself would neither vitiate the trial nor would entitle the accused to be released on bail. The Court will have to consider other circumstances and the other primary evidence collected during the course of investigation, as also the statutory presumption permissible under Section 54 of the NDPS Act.

19. The relief of bail, in the present case, has been sought on two grounds; firstly, the contraband has been



recovered from the possession of co-accused; and secondly, there is undue delay in conclusion of the trial.

20. According to the learned counsel for the applicant, the applicant was poor driver of the taxi and contraband was allegedly recovered from the possession of his co-accused namely Dimpi Dadhwal and there is nothing on the record to prove that he was, in any way, connected with the crime, in question.

21. To buttress his contentions, learned counsel appearing for the applicant has relied upon the decisions of Hon'ble Supreme Court in ***Petition(s) for Special Leave to Appeal Crl. No.2709 of 2026***, titled as ***Abhi Chandan versus State of Odisha, MANU/SCOR/25622/2026, Criminal Appeal No. of 2026, titled as Santosh Ghosh versus The State of West Bengal, MANU/SCOR/ 37821/ 2026***, and ***Criminal Appeal No. of 2026 (Arising out of Special Leave to Appeal Crl. No.5965 of 2026, titled Sk. Rabban versus State of West Bengal, MANU/SCOR/27419/2026.***



22. In order to demonstrate the plea regarding undue delay in the trial, learned counsel has placed on record the copy of zimni orders, passed by the learned trial Court, which reveal that for 8th and 9th October, 2026, only four witnesses have been summoned.

23. All these facts have been pleaded to demonstrate that there is undue delay and chances of conclusion of trial are also not so bright.

24. First of all, coming to the contentions of learned counsel appearing for the applicant that the contraband has not been recovered from his possession. As per the case of the police, both the accused persons were intercepted on 30.04.2024, when vehicle No.HP01-D-8247 was stopped, by the police for routine checking. The driver of the vehicle, on seeing the police, had tried to turn the vehicle towards link road and when, the vehicle was searched, then, near the feet of Dimpi Dadhwal, a cloth bag was found, which was given to the Police by Dimpi Dadhwal. Meaning thereby, the contraband was not concealed in the vehicle, warranting, this Court to draw



inference regarding the involvement of applicant, in the crime, in question, at this stage.

25. Situation would have been otherwise, had the police been present there, on the basis of some secret information, mentioning the names of the two persons, who allegedly were travelling with the contraband, in their car. The contraband was allegedly recovered by the Police, after noticing the act of the driver to turn the vehicle towards link road.

26. Considering the low legal literacy of the Indian Masses, on seeing the Police Party, on the road, the act of the driver to turn the vehicle cannot be said to be unnatural. The Police could not place on record any CDR, showing conversation between them or financial transaction between them.

27. Even otherwise, considering the fact that the case is listed for prosecution evidence on 8th and 9th October, 2026, and only 4 witnesses have been summoned, this Court is of the view that the chances of conclusion of trial in the near future are not so bright.



28. A three Judge Bench of the Hon'ble Supreme Court, in ***Union of India versus K.A. Najeeb***, reported as **(2021) 3 Supreme Court Cases 713**, has elaborately discussed the statutory restrictions, provided under Section 43-D(5) of the UAPA, which is akin to the provisions of Section 37 of NDPS Act. Relevant paras-10 to 19, of the judgment, are reproduced, as under:

"10. It is a fact that the High Court in the instant case has not determined the likelihood of the respondent being guilty or not, or whether rigours of Section 43-D(5) of the UAPA are alien to him. The High Court instead of incarceration and the unlikelihood of the trial being completed anytime appears to have exercised its power to grant bail owing to the long period in the near future. The reasons assigned by the High Court are apparently traceable back to Article 21 of our Constitution, of course without addressing the statutory embargo created by Section 43-D(5) of the UAPA.

11. The High Court's view draws support from a batch of decisions of this Court, including in Shaheen Welfare Assn. v. Union of India, (1996) 2 SCC 616, laying down that gross delay in disposal of such cases would justify the invocation of Article 21 of the Constitution and consequential necessity to release the undertrial on bail. It would be useful to quote the following observations from the cited case: (SCC p. 622, para 10)

"10. Bearing in mind the nature of the crime and the need to protect the society and the nation, TADA has prescribed in Section 20(8) stringent provisions for



granting bail. Such stringent provisions can be justified looking to the nature of the crime, as was held in Kartar Singh v. State of Punjab, (1994) 3 SCC 569, on the presumption that the trial of the accused will take place without undue delay. No one can justify gross delay in disposal of cases when undertrials perforce remain in jail, giving rise to possible situations that may justify invocation of Article 21."

(emphasis supplied)

12. Even in the case of special legislations like the Terrorist and Disruptive Activities (Prevention) Act, 1987 or the Narcotic Drugs and Psychotropic Substances Act, 1985 ("the NDPS Act") which too have somewhat rigorous conditions for grant of bail, this Court in *Paramjit Singh v. State (NCT of Delhi)*, (1999) 9 SCC 252, *Babba v. State of Maharashtra*, (2005) 11 SCC 569 and *Umarmia v. State of Gujarat*, (2017) 2 SCC 731, enlarged the accused on bail when they had been in jail for an extended period of time with little possibility of early completion of trial. The constitutionality of harsh conditions for bail in such special enactments, has thus been primarily justified on the touchstone of speedy trials to ensure the protection of innocent civilians.

13. We may also refer to the orders enlarging similarly-situated accused under UAPA passed by this Court in *Angela Harish Sontakke v. State of Maharashtra*, (2021) 3 SCC 723. That was also a case under Sections 10, 13, 17, 18, 18-A, 18-B, 20, 21, 38, 39 and 40(2) of the UAPA. This Court in its earnest effort to draw balance between the seriousness of the charges with the period of custody suffered and the likely period within which the trial could be expected to be completed took note of the five years'



incarceration and over 200 witnesses left to be examined, and thus granted bail to the accused notwithstanding Section 43-D(5) of the UAPA. Similarly, in *Sagar Tatyaram Gorkhe v. State of Maharashtra*, (2021) 3 SCC 725, an accused under UAPA was enlarged for he had been in jail for four years and there were over 147 witnesses still unexamined.

14. The facts of the instant case are more egregious than these two abovesited instances. Not only has the respondent been in jail for much more than five years, but there are 276 witnesses left to be examined. Charges have been framed only on 27-11-2020. Still further, two opportunities were given to the appellant NIA who has shown no inclination to screen its endless list of witnesses. It also deserves mention that of the thirteen co-accused who have been convicted, none have been given a sentence of more than eight years' rigorous imprisonment. It can, therefore, be legitimately expected that if found guilty, the respondent too would receive a sentence within the same ballpark. Given that two-third of such incarceration is already complete, it appears that the respondent has already paid heavily for his acts of fleeing from justice.

15. This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In *Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India*, (1994) 6 SCC 731, it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. However, owing to the practicalities of real life where to secure an



effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, the courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, the courts would ordinarily be obligated to enlarge them on bail.

16. As regards the judgment in *NIA v. Zahoor Ahmad Shah Watali*, (2019) 5 SCC 1, cited by the learned ASG, we find that it dealt with an entirely different factual matrix. In that case, the High Court had reappreciated the entire evidence on record to overturn the Special Court's conclusion of their being a *prima facie* case of conviction and concomitant rejection of bail. The High Court had practically conducted a mini-trial and determined admissibility of certain evidence, which exceeded the limited scope of a bail petition. This not only was beyond the statutory mandate of a *prima facie* assessment under Section 43-D(5), but it was premature and possibly would have prejudiced the trial itself. It was in these circumstances that this Court intervened and cancelled the bail.

17. It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of the UAPA per se does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a statute as well as the powers exercisable under constitutional jurisdiction can be well harmonised. Whereas at commencement of proceedings, the courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and



the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safeguard against the possibility of provisions like Section 43-D(5) of the d UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.

18. Adverting to the case at hand, we are conscious of the fact that the charges levelled against the respondent are grave and a serious threat to societal harmony. Had it been a case at the threshold, we would have outrightly turned down the respondent's prayer. However, keeping in mind the length of the period spent by him in custody and the unlikelihood of the trial being completed anytime soon, the High Court appears to have been left with no other option except to grant bail. An attempt has been made to strike a balance between the appellant's right to lead evidence of its choice and establish the charges beyond any doubt and simultaneously the respondent's rights guaranteed under Part III of our Constitution have been well protected.

19. Yet another reason which persuades us to enlarge the respondent on bail is that Section 43-D(5) of the UAPA is comparatively less stringent than Section 37 of the NDPS Act. Unlike the NDPS Act where the competent court needs to be satisfied that prima facie the accused is not guilty and that he is unlikely to commit another offence while on bail; there is no such precondition under UAPA. Instead, Section 43-D(5) of the UAPA merely provides another 9 possible ground for the competent court to refuse bail, in addition to the well-settled considerations like gravity of the offence, possibility of tampering with evidence, influencing the witnesses or chance of the accused evading the trial by absconsion, etc."

(self emphasis supplied)



29. In view of the ratio of law, laid down by the Hon'ble Supreme Court, in the aforesaid dictum, this Court is of the view that the twin conditions, as enumerated, in Section 37 of the NDPS Act can be said to be existing in favour of the applicant, on account of his long incarceration, by holding that, at this stage, it can be said that he is not guilty of such offence and while, on bail, he is not likely to commit any offence. Moreover, for the second condition, that he is not likely to commit any offence, reasonable conditions can be imposed on him.

30. The Hon'ble Supreme Court in ***Petition(s) for Special Leave to Appeal Crl. No.2709 of 2026***, titled as ***Abhi Chandan versus State of Odisha, MANU/SCOR/25622/2026***, has held as under :-

"2. Learned counsel for the petitioner, submits that there were six occupants in the vehicle, from which the seizure was effected. The admitted case of the prosecution is that three of them fled away. The petitioner was in the vehicle and was arrested. Learned counsel for the petitioner further submits that Samandar Kumar Singh @ Samunder -co-accused, who was one of the three fled away, has been enlarged on bail. Learned counsel for the petitioner submits that the question whether the petitioner was in conscious possession is highly doubtful and



is a matter to be established in the trial. Petitioner has already undergone one year of incarceration.

3. *Considering that the charges have just been framed; that the trial will take considerable time, and keeping in mind the prima facie nature of the case against the petitioner, and the ingredients of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS'), we are inclined to enlarge the petitioner on bail."*

31. The Hon'ble Supreme Court in **Criminal Appeal No. of 2026, titled as Santosh Ghosh versus The State of West Bengal, MANU/SCOR/ 37821/ 2026**, has held as under:-

"5. Considering the totality of circumstances and also the fact that the appellants have been in custody since 23.01.2025, we are inclined to grant bail to the appellants on such terms as may be fixed by the Trial Court. Ordered accordingly.

32. The Hon'ble Supreme Court in **Criminal Appeal No. of 2026 (Arising out of Special Leave to Appeal Crl. No.5965 of 2026, titled as Sk. Rabban versus State of West Bengal, MANU/SCOR/27419/2026**, has held as under:-



“5. Having regard to the fact that mere presence of the appellant herein in the house of A1, he has been apprehended, as to whether he was in active connivance with the other accused persons either in procuring, selling or distributing the contraband, is an issue which will have to be examined by the trial Court after considering the evidence that would be tendered by the prosecution. Hence, his continued incarceration, particularly, when chargesheet has been filed, would not be warranted.”

33. Considering all these facts, this Court is of the view that the bail application is liable to be allowed and is accordingly allowed. Consequently, the applicant is ordered to be released on bail, during the pendency of the trial, arising out of **FIR No.46/2024, dated 4th April, 2024**, registered with **Police Station, Palampur, District Kangra, H.P., under Sections 20, 25 and 29 of the NDPS Act**, on his furnishing personal bond, in the sum of Rs.50,000/-, with two sureties, in the like amount, to the satisfaction of learned trial Court.

34. This order of release, 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.*

35. Any of the observations made herein above 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.

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

37. The Registry is directed to forward a soft copy of the bail order to the Superintendent of Jail, District Jail, Dharamshala, through e-mail, with a direction to enter the date of grant of bail in the e-prison software.



38. In case, the applicant is not released within a period of seven days from the date of grant of bail, the Superintendent of Jail, District Jail, Dharamshala, is directed to inform this fact to the Secretary, DLSA, Kangra at Dharamshala. The Superintendent of Jail, District Jail, Dharamshala, 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

July 28, 2025_(ps)