



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

Cr.MP(M) No.1423 of 2026

Reserved on : 08.09.2026

Decided on : 09.09.2026

Uploaded on : 09.09.2026

Farukh

...Petitioner

Versus

State of H.P.

.....Respondent

Coram:

The Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.

Whether approved for reporting?¹

For the Petitioner : Mr. K.S. Gill, Advocate.

For the Respondent : Mr. Prashant Sen, Deputy Advocate
General.

Chirag Bhanu Singh, Judge (Oral)

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the 'BNSS'), seeking post arrest bail for having allegedly committed an offences punishable under Sections 20, 25 and 29 of the Narcotic Drugs & Psychotropic Substances Act (hereinafter referred to as the 'NDPS Act'),, registered vide FIR No.122 of 2026, dated 11.05.2026, at Police Station Nurpur, District Kangra, H.P.

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



2. It is the case of the petitioner that on the fateful day i.e. on 11.05.2026, the police has apprehended an Alto Car bearing registration No.HP-01C-2306, near village Bhatka, in District Kangra and co-accused Abdullah and Saif Ali came to be apprehended on the spot. The petitioner, who was traveling separately in a Honda BR-V bearing registration No.HP-48A-7741, has been implicated solely on the uncorroborated allegations that his vehicle was reckking the area to facilitate the passage of the two co-accuseds.

3. It is the further case of the petitioner that he was innocent and had not committed any offence. He has been falsely implicated and the prosecution had even failed to collect any prima facie material, such as the CDRs or the financial transactions to establish his complicity in the offence. The investigation vis-a-vis the petitioner are complete.

4. The petitioner had preferred an application for bail before the learned Special Judge-III, Kangra at Dharamshala, District Kangra, H.P., which was dismissed on 24.07.2026. There is however, no material on record to connect the petitioner with the commission of the crime. He has no past criminal antecedents. He be thus enlarged on bail.



5. The State while opposing the bail has filed a status report. It is asserted by the State that on 11.05.2026 the Investigating Officer, HC Rajneet Singh, along with a police team had left for patrolling and at about 3:30 PM, when the police patrol was on the defence road near Ekant Hotel, a secret information had been received that one Alto Car (white in colour) bearing No.HP-01C-2306 was coming from Danera side with accused Saif Ali and Abdula. Both the accused deal in narcotics and in case, the vehicle is apprehended, a huge cache of drugs may be recovered. The IO had also been informed that the present petitioner Farukh was piloting the vehicle carrying contraband in another car bearing registration No.HP48A-7741.

6. Acting swiftly on the tip off, the IO, HC Ranjeet Singh recorded the reasons of belief under Section 42(2) and sent the same to the SDPO Nurpur, through LC Sujata. The IO immediately informed one Joginder Singh son of Shri Gasita Ram and Inderjeet Singh son of Shri Karnail Singh about the secret information and requested them to join the police party as independent witnesses. The two witnesses were asked to meet the police patrol at Sunehra village.



7. The raiding party had thereupon setup a Naka at Sunehra around 4:00-5:00 PM. At about 4:10 PM, both the aforesaid vehicles had reached the Naka. Both the vehicles were signalled to stop. The vehicles driven by the petitioner was also detained by Constable Manish Kumar at the spot along with the other car. The other members of the police party had proceeded towards the other vehicle bearing Registration No.HP01C-2306. On inquiry, in the presence of the independent witnesses the driver of the Alto Car had disclosed his name as Abdulla son of Gulam Rasul, while the person sitting on the co-drivers' seat had disclosed his name as Saif Ali son of Amandulla. The driver of the Car bearing HP48-7741, (present petitioner) had disclosed his name as Farukh.

8. The police party had thereafter, given its search to the three accused. Subsequently, the Alto Car bearing Registration No.HP01C-2306, came to be searched by the IO. During the course of search, one yellow coloured carry bag tied with a knot was found concealed below the foot mat of the co-driver seat. The carry bag was inscribed with the words Rajasthan House. On checking the carry bag, black substance



in the shape of sticks were recovered. On the basis of experience and smell, it was found to be charas. On weighing the contraband was found to be 1 Kg 340 grams. The contraband so recovered came to be seized after completing the codal formalities at the spot itself. Both the vehicles were also taken into possession by the IO. All the three accused persons came to be arrested at the spot. Presently, the petitioner is in judicial custody.

9. The prosecution the contraband recovered is commercial in quantity and the petitioner had consciously and actively connived with the co-accused and has been arrested at the spot. The petitioner is thus, complicit in the commission of the offence.

10. I have heard learned counsel for the petitioner and learned Deputy Advocate General for the State and perused the record.

11. It is the contention of the learned counsel for the petitioner that no doubt, contraband weighing more than 1 kg had been apprehended but the same was taken into possession from the conscious and exclusive possession of the two co-accuseds Abdullah and Saif Ali. Admittedly, the



accused was not travelling in the car in which the contraband was recovered. At best, he can be said to be complicit only under Section 29. The petitioner has no past antecedents in dealing with narcotics. There is no evidence worth the name against the petitioner. The incarceration of the petitioner is thus totally unwarranted.

12. Per contra, the learned Deputy Advocate General, with all vehemence has urged that the petitioner was escorting the vehicle, which was carrying contraband. The contraband recovered was admittedly commercial in quantity and as such, the rigors of Section 37 of the NDPS Act, will apply with all fervor. The petitioner has failed to satisfy the twin test laid down in Section 37 of the NDPS Act and hence the petition deserves to be dismissed.

13. Admittedly, the contraband recovered is commercial in quantity and as such, the rigors of Section 37 will apply with all force. In order to seek bail the petitioner will have to satisfy the twin test laid down under Section 37 of the NDPS Act. The perusal of the status report, however, clearly suggests that the contraband admittedly was not recovered from the vehicle of the petitioner nor he was



travelling in the vehicle in which, the contraband was allegedly recovered. No incriminating substance had been recovered from the car of the petitioner/accused. It is the case of the prosecution itself that the petitioner was escorting the co-accused Abdullah and Saif Ali. He was driving the vehicle in front of the co-accused to ensure safe passage for them, from any imminent danger of the police. However, seemingly, both the vehicles had been stopped at the spot almost at the same time.

14. The only material collected by the prosecution against the present petitioner is the call details records (CDRs). The petitioner is stated to have been in touch with the two co-accused in the fateful day on phone. Over and apart, there is nothing on record to connect the petitioner with the other two co-accuseds. It is also not the case that the petitioner had fled from the spot. In fact, the car of the petitioner had also been signal to stop along with the other car almost simultaneously. The mere fact that the vehicles were moving almost together does not even show that he was escorting the co-accused to signal them about any imminent danger. The circumstances detailed by the prosecution may



give rise to a great suspicion, but suspicion, however, strong can never take the place of proof. Therefore, the call detail records and the apprehension of the accused petitioner cannot be said to be sufficient proof to connect the petitioner with the commission of the crime, at least at this stage.

15. The petitioner at best can be said to have been privy to abetting or conniving with the other two co-accuseds, as per the requirement of Section 29 of the Act, but even in that respect there is no sufficient material placed on record by the prosecution to connect with the commission of the offence. The first test of there being reasonable grounds for believing that the accused is not guilty, thus, does not come to the fore. No material has also been brought on record by the prosecution to show that the petitioner had any past history of dealing in narcotics and even otherwise, there is no material on record to further show that the petitioner may commit the same offence while on bail. Therefore, the petitioner has been able to satisfy the twin tests laid down under Section 37 of the Act. There is nothing to show that the petitioner has in anyway conspired or abetted with the other co-accuseds.



16. For all the reasons detailed herein above the present petition is thus allowed. As a sequel the petitioner is ordered to be released on bail, subject to his furnishing bail bonds in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the learned trial Court. The bail shall however, be subject to the following conditions:-

- (i) That the petitioner shall not temper with the prosecution evidence nor intimidate, threaten or coerce the witnesses conversant to the facts of the case.
- (ii) The petitioner shall attend the trial as and when directed.
- (iii) The petitioner shall not leave the jurisdiction of Himachal Pradesh without the specific permission of the Court.

17. 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 for the purpose of disposal of the present petition.

18. Petition is disposed off accordingly.

(Chirag Bhanu Singh)
Judge

September 09, 2026
(subhash)