

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP (M) No. 1554 of 2026

Reserved on: 15.09.2026

Date of Decision: 16.09.2026.

Uploaded on: 16.09.2026

Gagan Kumar

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram

Hon'ble Mr Justice Chirag Bhanu Singh, Judge.

Whether approved for reporting?¹

For the Petitioner : Mr. Ankit Dhiman, Advocate.

For the Respondent/State : Mr. Lokender Kutlehria,
Additional Advocate General.

Chirag Bhanu Singh, Judge

The petitioner has filed the present petition seeking regular bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita (for short "BNSS"). It has been asserted that the petitioner was arrested vide F.I.R. No. 125 of 2026, dated 11.06.2026, for allegedly having committed an offence punishable under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as

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

the "Act"), registered at Police Station Sadar, District Chamba, H.P.

2. The case of the prosecution, as can be culled out from the status report, is that on the fateful day, i.e. 11.06.2026, a police team headed by HC Yograj, No. 83, was on patrolling. At about 06:30 p.m. the police patrol was at Hadoli Nala, near village Sugul. During patrolling, the police team had noticed one person standing on the left side of the road, wearing a black T-shirt and a grey Pajama.

3. Suspicion having arisen, the Investigating Officer, HC Yograj, stopped the vehicle. On seeing the police party alight, the person got nervous and started proceeding towards Sugul at a fast pace. With the assistance of the police officials, he was apprehended. On being confronted, he took out a packet from the right pocket of his Pajama and threw the same towards the roadside.

4. At about the same time, a vehicle bearing registration No.HP73A-5117 (Hyundai i20) reached the spot. The driver of the vehicle disclosed his name as Yugal Kishore, son of Kamal Narayan, resident of village Sugul, Post Office Baror, Tehsil and

District Chamba, H.P. He was apprised about the situation and requested to join the proceedings as an independent witness. He had readily agreed.

5. In the presence of the independent witness, the accused had disclosed his name as Gagan Kumar, son of Pawan Kumar, resident of village and Post Office Kandla, Tehsil and District Chamba, H.P. On checking the polythene packet thrown by him, a light brown substance was found, which, on testing with the drug detection kit was found to be heroin (chitta). On weighing, it was found to be 37.23 grams. The Investigating Officer took the contraband into possession after fulfilling all the codal formalities at the spot.

6. The petitioner also came to be arrested at the spot and is presently in judicial custody.

7. I have heard the learned counsel for the parties and gone through the record meticulously.

8. It is urged by the learned counsel for the petitioner that, as per the prosecution story itself, only 37.23 grams of heroin (chitta) had allegedly been recovered from the petitioner, which falls in the category of "intermediate quantity". The

petitioner has never been accused of any crime under the Act, earlier though two FIRs under the Indian Penal Code were pending against him and the same could not be a ground to deny bail to the petitioner. The case of the prosecution itself is founded on the allegation that the petitioner had thrown some plastic packet and the recovery had been made from the said packet. It cannot be said that the contraband had been recovered from the conscious and exclusive possession of the petitioner. The investigation are otherwise stated to be complete. The petitioner thus prays to be enlarged on bail.

9. *Per-contra*, the learned Additional Advocate General submits that the petitioner does not deserve the concession of bail, as two other FIRs already stand registered against him, rendering his antecedents doubtful. He being involved in drugs requires to be dealt with strictly. The respondent-State thus prays for dismissal of the bail application.

10. Undisputedly, the contraband allegedly recovered from the petitioner is of intermediate quantity, i.e. 37.23 grams of heroin (chitta), as such, the rigours of Section 37 of the Act would not apply with the same force.

11. A perusal of the record reveals that two FIRs are indeed registered against the petitioner, however, neither relates to any offence under the Act. The first FIR, i.e. FIR No. 286 of 2025, dated 29.11.2025, is registered under Sections 143, 146, 61(2), 111(2)(b) and 318 of the Bharatiya Nyaya Sanhita and Section 24 of the Immigration Act, whereas FIR No.287 of 2025, dated 29.11.2025, has also been registered under the aforesaid provisions too. Thus, there is no material on record to suggest any previous involvement of the petitioner in an offence relating to the Act. In the facts and circumstances of the case, particularly the quantity allegedly recovered, the aforesaid FIRs, having not being under the Act, by itself, would not disentitle the petitioner to the concession of bail.

12. Admittedly, the investigations in the case are also complete and the challan also stands filed and the matter has been listed for consideration of charges on 22.09.2026. The trial is thus likely to take substantial time. Pre-trial detention is generally loathed by the Courts, thus, considering the totality of the circumstances discussed above, the present bail petition is allowed.

13. As a sequel, the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the tune of Rs.50,000/- with one surety of the like amount, to the satisfaction of the learned Trial Court though subject to the following conditions:-

- i) That the petitioner shall not tamper with the prosecution evidence nor intimidate, threaten or coerce the witnesses conversant to the facts of the case;
- ii) That the petitioner shall attend the trial as and when directed;
- iii) That the petitioner shall not leave the country without the express permission of the Court; &
- iv) That the petitioner shall not indulge in any similar offence in future and, in case he is found to indulge in similar cases in the future, the bail granted to the petitioner shall be liable to be cancelled forthwith.

14. 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 the disposal of the present present petition.

15. Petition stand disposed off in the aforesaid terms, so also the pending application, if any.

16th September, 2026
(Shamsh Tabrez)

(Chirag Bhanu Singh)
Judge