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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr.MP(M) No. 2523 of 2025****Reserved on : 25.11.2025****Decided on : 28.11.2025**

Samrit Dhiman

...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. Aditya Chouhan and Mr. Ankush Chauhan, Advocates.

For the respondent : Mr. Varun Chandel, Mr. Mohinder Zharaick and Mr. H.S. Rawat, Additional Advocates General with Ms. Ranjna Patial and Mr. Rohit Sharma, Deputy Advocates General.

Virender Singh, Judge

Applicant Samrit Dhiman, has filed the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), for releasing him on bail, during the pendency of the trial, arising out of **FIR No. 81 of 2023, dated 06.08.2023**, registered **under Sections 20 and 29 of the Narcotic**

Drugs & Psychotropic Substances Act (hereinafter

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



referred to as the 'NDPS Act'), with **Police Station Swarghat, District Bilaspur, H.P.**

2. According to the applicant, he is innocent person and has falsely been implicated by the police, in the present case.

3. As per the applicant, he has no concern, whatsoever, with the crime in question and relief of bail has been sought on the ground that there is undue delay in the trial, as the case is now listed for 25.11.2025, for framing the charge against the co-accused, who were arrested later on.

4. It is the further case of the applicant that eight prosecution witnesses have been examined earlier, prior to the arrest of his other co-accused and majority of them have turned hostile and failed to support the factum of seizure from the applicant.

5. Highlighting the fact that the applicant is having no criminal history, it has been averred, in the application, that he has tried his luck by moving application for bail before learned Special Judge, Ghumarwin, District Bilaspur, H.P., as well as, this Court,



however, his applications have been dismissed by both the Courts.

6. On the basis of above facts, Sh. Aditya Chouhan, 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 ordered to be released on bail.

7. When, put to notice, the police has filed the status report disclosing therein, that on 06.08.2023, HC Samad No.8, I/O ANTF, Kullu, has submitted the ruqqa to Police Station Swarghat, District Bilaspur, H.P., mentioning therein, that on 06.08.2023, IO, along with other police officials, was present at Kenchi Morh, Swarghat for picketing duty. They were checking the vehicles, as well as, the luggage of the persons, travelling in the vehicles.

7.1 It is the case of the police that at about 01:00 am, a Volvo bus came from Swarghat side, which was signaled with the help of torch and asked to stop, upon which, the bus driver stopped the bus on the left side of the road. The registration number of the bus was found to



be HR38-AA-9099, colour white. Subsequently, police party entered into the bus from the front door and introduced themselves to the bus conductor, who told them that there were 41 passengers, 1 bus driver and 1 conductor, in the bus and the bus was going from Manali-Raison to Delhi.

7.2 It is the case of the police that when, the IO reached the last seat of the bus, he noticed that a person, sitting on Seat No.37(W) was trying to avoid eye contact and when, his name was enquired, he got perplexed and tried to hide the bag with his hands, which was lying between his legs. His activity raised a suspicion in the mind of the IO that the said bag might be containing some illegal articles. Thereafter, IO requested the passengers, sitting in the bus, to be the independent witnesses, but, all of them had shown their inability to do so. Consequently, the driver and conductor of the bus were apprised about the factual position and they were associated in the team as independent witnesses.

7.3 It is the case of the police that thereafter, name and address of the person, sitting on Seat No.37(W), were



ascertained, who, on enquiry, disclosed his name as Samrit, S/o Manish Dhiman, R/o 623, Green Field, Majitha Road, PS Sadar, District Amritsar, Punjab (applicant). In the presence of the independent witnesses, the bag, which the applicant had kept near his legs, was taken out and on opening, the same was found to be consisting of 14 transparent plastic wrapped packets, containing black coloured substance. When, one packet was opened, on the basis of the smelling and experience, the same was found to be containing charas/cannabis. Thereafter, on weighment, the 14 pancake-shaped substances were found to be 1.495 kg, which were taken into possession. Other codal formalities were completed.

7.4. After the arrest of accused Samrit Dhiman, he was inquired and later on involvement of accused Prakarit Sanan @ Preet and Manav Keshar @ Mani, was found and both were arrested on 17.05.2025, at Amritsar.

7.5 During investigation, both accused Manav Keshar and Prakarit Sanan, made a statement under Section 27 of Indian Evidence Act and identified the place, where a person namely Rahul had given the contraband to



whom both of them have paid Rs. 1,60,000/-. After the completion of investigation, case is now stated to be listed for 25.11.2025, for consideration on charge.

7.6 It has also been pleaded, in the status report that accused Manav Keshar and Prakarit Sanan, have been released on bail, by this Court.

7.7 Lastly, it has been apprehended that the applicant is a clever person and the contraband recovered, in the present case, falls within the definition of commercial quantity and the applicant may terrorize or influence the prosecution witnesses. It has further been apprehended that possibility of being not available for the trial, cannot be ruled out and the applicant may indulge himself in the same activity.

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

9. As per the stand taken by the police in the status report, out of the 30 witnesses, eight have already been examined, however, due to the arrest of accused Manav Keshar and Prakarit Sanan, the supplementary challan was filed against them and now the case is listed



on 25.11.2025, for consideration on charge. In such situation, the plea, which has been taken by the applicant qua undue delay in the trial, to the considered opinion of this Court, cannot be accepted, as delay has been occurred due to the fact that two accused were arrested only on 17.05.2025. According to the police, they were not found available at their addresses, as disclosed by applicant.

10. Moreover, their involvement was found on the basis of alleged revelation made by applicant Samrit Dhiman, whereas, applicant Samrit Dhiman was arrested, when he was travelling in bus bearing No. HR38AA-9099, enroute from Manali/Raison to Delhi, on 06.08.2023. From his possession, a rucksack containing 1.495 kg charas was stated to be recovered.

11. The trial against the applicant has already been commenced and eight prosecution witnesses have already been examined, but, on account of the unforeseen circumstances, i.e., arrest of accused Manav Keshar and Prakarit Sanan, on 17.05.2025, delay has caused in the trial and on account of the delay, the applicant is not entitled for any relief.



12. In other words, it can be said that the delay in the trial has been attributed to the compliance of the provision of procedural law, as with the arrest of other two accused, the trial Court has to do the procedural compliance, before recording the prosecution witnesses.

13. Considering the peculiar facts and circumstances of the present case, as highlighted above, no benefit could be derived by the case law relied by learned Counsel for the applicant, in “Mohd. Muslim @ Hussain Vs State (NCT of Delhi), 2023 LiveLaw (SC) 260”; “Rabi Prakash Vs The State of Odisha, 2023 Live Law (SC) 533”; “Ankur Chaudhary Vs State of Madhya Pradesh, Special Leave to Appeal (Crl.) No. 4648/2024 decided on 28.05.2024”; and “Ram Lal Vs State of Rajasthan, 2024 SCC OnLine SC 2594”.

14. So far as the ground of parity, which has been highlighted by learned Counsel appearing for the applicant, is concerned, as stated above, accused Manav Keshar and Prakarit Sanan, have been arrested on the basis of the alleged revelation made by applicant Samrit Dhiman, and as per the decision of Hon’ble Apex Court in “**Tofan Singh**



Vs State of Tamil Nadu, reported in **(2021) 4 SCC 1**", the statement made during the police custody is inadmissible, whereas the applicant has been arrested along with rucksack containing 1.495 kg charas. As such, on the ground of parity, no relief cannot be granted to the applicant.

15. If the facts of the present case are seen in the light of the decision of Hon'ble Supreme Court in **Criminal Appeal No.5544 of 2024**, titled as '**Narcotics Control Bureau versus Kashif**', **Neutral Citation No.2024 INSC 1045**, then too, the applicant is not entitled for the bail. Relevant paragraphs 8 and 39 of the said 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 is known 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.”

(self-emphasis supplied)

16. In view of the above discussions, at this stage, it cannot be said that the applicant has not committed the offence, nor it can be said that in case, he is ordered to be released on bail, he will not commit any offence.

17. In the absence of the twin conditions, as enumerated, under Section 37(1)(b) of the NDPS Act, this Court cannot accept the arguments of learned counsel, appearing for the applicant, who has sought the release of the applicant, on bail, during the pendency of the trial.

18. In view of the discussions, made hereinabove, this Court is of the opinion that the applicant is not able to make out a case for his release on bail.



19. Consequently, the present bail application is dismissed.

20. 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.

(Virender Singh)
Judge

28th November, 2025
(Pramod Kumar)