



2025:HHC:39810

2025:HHC:39810

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.MP (M) No. : 2580 of 2025

Reserved on : 18.11.2025

Decided on : 25.11.2025

Durga Singh

...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. Yug Singhal, Advocate.

For the respondent : Mr. Varun Chandel, Mr. Mohinder Zharaick, Additional Advocates General, with Ms. Ranjna Patial, Deputy Advocate General, assisted by ASI Pawan Kumar, Police Station Shahpur, District Kangra, H.P.

Virender Singh, Judge

Applicant-Durga Singh 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, in case arising out of **FIR No. 92 of**

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



2023, dated 14.09.2023, registered at Police Station Shahpur, District Kangra, H.P., under Sections 22 and 25 of the Narcotic Drugs and Psychotropic Substances Act, (hereinafter referred to as the 'ND&PS Act') and Sections 181, 192 and 196 of the Motor Vehicles Act.

2. According to the applicant, he is innocent person and has falsely been implicated by the police in the present case. The prosecution case is totally baseless and there is nothing on the record to connect the applicant with the crime in question. The contents of the FIR are stated to be false and according to the applicant, even during the entire investigation, nothing could be brought on record to connect the applicant with the crime in question. The applicant is in judicial custody, since 14.09.2023.

3. According to the applicant, the investigation of the present case is complete and no useful purpose would be served by keeping the applicant in judicial custody.

4. The applicant has tried his luck by moving similar application before learned Special Judge-II, Kangra



at Dharamshala, H.P., however, his application has been dismissed vide order dated 23.07.2025.

5. According to the applicant, the alleged recovery is 37.5 mg of Tramadol capsules from the dashboard of the Maruti Car, allegedly driven by the applicant, whereas, rest of the recovery was shown to be from the house of the applicant, where, neither he was present, nor, the said house belongs to the applicant.

6. The fact that the prosecution could not produce the documents qua ownership of the said house to demonstrate that the same is under his control and exclusive possession, has also been highlighted.

7. The applicant has also pleaded that there is undue delay in the trial, as such, on account of that he has also sought the relief of bail.

8. The applicant has also given the details of the five cases, which have been registered against him, under various provisions, in para 12 of the application. The details of cases is reproduced, as under:-

- (i) FIR No. 78/2019, dated 07.06.2019, under Sections 341, 323, 504, 506 & 34 of IPC, Police Station Shahpur, District Kangra, H.P.;



- (ii) FIR No. 79/2019, dated 07.06.2019, under Sections 341, 323, 34 of IPC, Police Station Shahpur, District Kangra, H.P.;
- (iii) FIR No. 97/2015, dated 19.04.2015, under Sections 147, 341, 323, 506 of IPC;
- (iv) FIR No. 11/2016, dated 23.01.2016, under Section 341, 323, 506, 34 of IPC at Police Station Shahpur, District Kangra, H.P.; and
- (v) FIR No. 176/2019, dated 10.12.2019, under Section 21 of ND&PS Act.

9. On the basis of the above facts, Sh. Yug Singhal, learned counsel appearing for the applicant has given certain undertakings, to which, the applicant is ready to abide by, in case, the applicant is ordered to be released on bail, during the pendency of the trial.

10. When put to notice, the police has filed the status report, disclosing therein, that on 14.09.2023, HC Kuldeep Dogra, has submitted a rukka to Police Station Shahpur, disclosing therein, that on 13.09.2023, I.O. along with other police officials, under the leadership of ASI Jitender Kumar, had left the Police Line Dharamshala along with I.O. Kit, as well as, drug detection kit and personal laptop, on patrolling duty, as well as, duty to



detect the crime relating to excise etc., in their personal vehicle, towards the area of Dharamshala, Gaggal, Kangra, Shahpur.

10.1 At about 8:20 pm, while doing the patrolling, when they were present on the road at Chambi Chowk, then, a secret information was received, qua indulgence of Durga Singh son of Virender Singh, resident of House No. 15, Village & Post Office Tharu, Tehsil Shahpur, District Kangra, H.P., age 30 years, in the business of selling narcotic substance, at a small ground in front of Shiv Barfani Temple, on Chambi to Dharamshala Dadambh road, in his vehicle bearing No. HP97A-0921, Maruti 800. As per the information, if search is conducted, large quantity of contraband could be recovered.

10.2 The said information was found to be authentic and reliable. Considering the fact that Court complex is situated at a considerable distance, and in case, search warrants were obtained, delay could be caused and contraband could be removed. As such, information under Section 42(2) of the ND&PS Act, was prepared and submitted to SDPO Shahpur, through C. Sanjeev Jaryal.



10.3 Since the place was secluded one and it was pitch dark, as such, no independent witness was found there. Thereafter, I.O. when reached at the spot, i.e. the ground in front of Shiv Barfani Temple, he noticed one vehicle No. HP97A-0921, Maruti 800 parked in the ground. In the said vehicle, one person was found on driving wheel. On inquiry, he disclosed his name as Durga Singh (applicant).

10.4 Thereafter, I.O. apprised him about the secret information, which, he had received and apprised him about the search of the vehicle. Prior to that, applicant has searched the police party, I.O. kit and drug detection kit. Nothing incriminating was found. Thereafter, I.O. searched the vehicle in the presence of the witnesses. From the dashboard of the vehicle, one blue coloured carry bag was found, which was having a knot, on it. When the knot was opened, four strips of Proxywel Spas Cap., containing 90 capsules were found. Every capsule was found to be containing 50 mg Tramadol, as such, total 4500 mg Tramadol, was found in it.



10.5 Apart from this, ten strips of Miedol – P, total 100 tablets having 3750 mg Tramadol were also recovered. The said contraband was taken into possession, as, the applicant could not produce any license/permit. Other codal formalities were completed and after registration of FIR, police has arrested him.

10.6 Further investigation was, thereafter, handed over to ASI Ashwani Kumar, I.O. Police Station Shahpur. Thereafter, house of accused Durga Singh (applicant) was searched. From the roof of the cowshed, a green coloured plastic sack was recovered. On opening, the same was found containing 35 strips of capsules, total containing 840 capsules Proxywel Spas, which were taken into possession. As per the report of the expert, from FSL Junga, the recovered contraband was found to be sample of Tramadol tablets and tramadol capsules and the same was found to be commercial quantity. The same falls within the definition of commercial quantity.

10.7 As per the status report, the following cases are found to be registered against the applicant:-



- (i) FIR No. 78/2019, dated 07.06.2019, under Sections 341, 323, 504, 506 & 34 of IPC, Police Station Shahpur, District Kangra, H.P.;
- (ii) FIR No. 79/2019, dated 07.06.2019, under Sections 341, 323, 34 of IPC, Police Station Shahpur, District Kangra, H.P.;
- (iii) FIR No. 97/2015, dated 19.04.2015, under Sections 147, 341, 323, 506 of IPC;
- (iv) FIR No. 11/2016, dated 23.01.2016, under Section 341, 323, 506, 34 of IPC at Police Station Shahpur, District Kangra, H.P.; and
- (v) FIR No. 176/2019, dated 10.12.2019, under Section 21 of ND&PS Act.

10.8 After the completion of investigation, police filed the charge-sheet in the Court of learned Special Judge-II, Kangra at Dharamshala. Out of the 36 witnesses, six witnesses have been examined. On the basis of above facts, a prayer has been made to dismiss the application.

11. The bail in the present case has been sought mainly on two grounds, firstly, there is undue delay in the trial. The accused in the present case was arrested on 14.09.2023 and as per the status report, out of 36 witnesses, six witnesses have been examined. From the



face of the trial, it cannot be said that there is undue delay in the trial.

12. So far as the argument of the learned Counsel appearing for the applicant, qua the fact that no evidence has been collected by the prosecution to demonstrate that the house, from which, the alleged recovery of the contraband shown to have been made, belongs to the applicant is concerned, the said fact would be proved, by the prosecution during the trial. When, a specific stand has been taken that after the arrest of accused Durga Singh (applicant), his house was searched and recovery of 840 capsules of Proxywel Spas were recovered, then, at this stage, the stand of the applicant, as taken, cannot be considered.

13. Moreover, the probable defence of the applicant qua the fact that the said house does not belong to him would be proved during the trial.

14. Situation would have been otherwise, had the police been mentioned the fact that the house, from where, the contraband i.e. 840 capsules of Proxywel Spas, were recovered, was owned by someone else, and not by



applicant Durga Singh, whereas, in the present case, a specific stand has been taken by the police by pleading that the house of Durga Singh was searched and recovery was effected.

15. 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.

16. In view of the criminal history, as mentioned in the bail application, as well as, status report, at this stage, it cannot be said that while on bail, the applicant will not commit any offence. In the absence of the material to satisfy this Court to record the findings, which should be more than existing prima facie in favour of the applicant, no relief cannot be granted to the applicant.

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

18. Consequently, the present bail application is dismissed.



2025:HHC:39810

11

2025:HHC:39810

19. 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

25th November, 2025
(Pramod Kumar)