



2025:HHC:40523

2025:HHC:40523

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.MP (M) No. : 2708 of 2025

Reserved On : 25.11.2025

Decided on : 28.11.2025

Ankush Bawa

...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. Rakesh Chaudhary and Mr. Panku Chaudhary, Advocates.

For the respondent : Mr. Varun Chandel, Mr. Mohinder Zharaick, Mr. H.S. Rawat, Additional Advocates General, with Ms. Ranjna Patial, Deputy Advocate General, assisted by HC Ravinder Kumar No. 504, Police Station Paonta Sahib, District Sirmour, H.P.

Virender Singh, Judge

Applicant-Ankush Bawa 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

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



pendency of trial, arising out of **FIR No. 206 of 2025, dated 12.09.2025, under Sections 15 & 29 of the Narcotic Drugs and Psychotropic Substances Act**, (hereinafter referred to as the 'ND&PS Act'), **registered with Police Station Paonta Sahib, District Sirmour, H.P.**

2. According to the applicant, he is innocent person and has falsely been implicated, by the police, in the present case. According to him, he has no connection, whatsoever, with the offences, for which, he has been named as accused, as well as, arrested, by the police.

3. As per the applicant, the alleged recovery does not fall within the definition of commercial quantity, as such, rigors of Section 37 of ND&PS Act are not applicable. Investigation is also stated to be complete, in this case.

4. The applicant has earlier tried his luck by moving bail application No. 115 of 2025, before learned Special Judge, Paonta Sahib, District Sirmour, H.P., however, his application has been dismissed, vide order dated 25.10.2025.

5. On the basis of the above facts, Mr. Rakesh Chaudhary and Mr. Panku Chaudhary, learned counsel



appearing for the applicant, have 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.

6. When put to notice, the police has filed the status report, disclosing therein, that on 12.09.2025, HC Anil Tomar No. 645, I.O., Special Detection Team, Sub Division Paonta Sahib, along with other police officials, was on patrolling duty, as well as, duty to detect the crime relating to excise etc. in the area of Sub Division Paonta Sahib. At about 2:45 pm, while on patrolling, when he reached at Behral forest, near Lal Dhank, then, he received a secret information qua the fact that at Lal Dhank near Haryana border, in the area of Himachal Pradesh, a white coloured Swift car bearing temporary No. T0925HP5600J, has been parked.

6.1 As per the information, three persons namely, Lovepreet @ Punjabi son of Praveen Kumar, resident of Amritsar; Ankush son of Praveen Kumar, resident of Amritsar (applicant); and Sahil son of Sharafat Ali, resident of Puruwala, were selling bhukki/chura-post, to the truck



drivers, there and in case, they were nabbed, large quantity of bhukki/chura-post could be recovered.

6.2 According to the I.O., in case, he obtains search warrants or authorization letter, in that situation, delay could be caused and contraband could be removed from there. The said information was found to be authentic and reliable, as such, he has prepared the information under Section 42(2) of ND&PS Act and submitted the same to SDPO Paonta Sahib.

6.3 Thereafter, the I.O. proceeded towards Lal Dhank side. Meanwhile, from Paonta Sahib side, a Swift car being driven by its driver, came there. The I.O. signalled to stop the said vehicle. Consequently, driver stopped the vehicle. I.O. apprised him about the secret information and the driver of the said vehicle, disclosed his name as Pawan Chaudhary son of Sh. Mukandi Lal. He was associated in the police team and thereafter, they reached at the spot.

6.4 At about 3:30 pm, when, the police team reached at the spot, and when, they stopped their car, one person sitting on the driver seat of vehicle No.



T0925HP5600J, started the vehicle. Other person fled away downside in the bushes and third person removed a plastic sack from the dickey of the car and threw it on the side of the road. The said person was nabbed with the help of police officials, whereas the person, on wheel, drove away the vehicle No. T0925HP5600J, towards Haryana side.

6.5 The person, who was nabbed, on inquiry, disclosed his name as Ankush son of Sh. Praveen Kumar (applicant). Ankush (applicant) was apprised about the secret information and thereafter, the plastic sack was searched, after giving the personal search to the said person by the I.O. When, the plastic sack was opened, the same was found containing brown coloured powdered substance, which was in the plastic envelope. On the basis of experience, the said substance was found to be poppy husk. Total 26 packets were found. On weighment, the weight of the above plastic packets was found to be 13.175 kg.

6.6 When, Ankush (applicant) was inquired about the person, who has fled away, he has disclosed that the



person, who had run towards bushes, is his brother Lovepreet @ Punjabi and the person, who fled away with the vehicle is Sahil son of Sh. Sharafat Ali. Since, it has been found that Ankush (applicant), Lovepreet and Sahil, were having 13.175 kg poppy husk, in their possession, as such, offences under Sections 15 and 29 of the ND&PS Act were found to have been committed. Rukka was prepared and same was submitted to police station, upon which, FIR in question has been registered.

6.7 Ankush was arrested on 12.09.2025, at 10:10 pm. During investigation, the person, who fled away from there, namely Sahil, was nabbed, on 14.09.2025 from Behedewala and was arrested. Thereafter, the proceedings under Section 52-A of ND&PS Act were got conducted and sample was sent for chemical analysis to SFSL Junga. After receiving the positive report from SFSL Junga, charge-sheet has been filed against Ankush and Sahil.

6.8 According to the police, brother of applicant Ankush, is yet to be arrested and vehicle No. T0925HP5600J is yet to be recovered.



6.9 Lastly, it has been apprehended that in case applicant Ankush is released on bail, he may create obstruction in the arrest of his brother Lovepreet. No other case was found to be registered against him.

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

8. Heard.

9. The contraband allegedly recovered in the present case, does not fall, within the definition of the 'commercial quantity', as such, rigors of Section 37 of ND&PS Act are not applicable, in the present case.

10. Once, it has been held that the rigors of Section 37 of the NDPS Act are not applicable, in that eventuality, the presumption of innocence is still available to the applicant, as the bail application cannot be rejected merely as a matter of punishment, since, pre-trial punishment is prohibited under the law.

11. In the present case, investigation is complete and the police has submitted the *challan*, in the competent Court of law. This fact is sufficient to demonstrate that the



custodial interrogation of the applicant is no longer required by the police.

12. Even otherwise, the bail application cannot be rejected, as a matter of punishment, as, the punishment can only be inflicted, after the conclusion of trial and in the present case, the chances of commencement and conclusion of trial against the applicant, in near future, are not so bright. As such, he cannot be kept in judicial custody, that too, for the indefinite period.

13. No criminal history of the applicant has been mentioned in the status report, nor the same has been argued by learned Additional Advocate General, during the course of arguments.

14. The apprehension that his brother is yet to be arrested by the police, is too short to decline the relief, for which, he is entitled to. Moreover, the chances of commencement and conclusion of the trial against the applicant, in near future, are not so bright, as the case is listed for 02.12.2025, for office report.

15. Merely, for the reason that the applicant is resident of District Amritsar, Punjab, the relief, for which,



he is otherwise entitled to, cannot be declined to him, as for securing his presence, during the trial, reasonable conditions can be imposed.

16. Considering all these facts, this Court is of the view that the bail application is liable to be allowed and is accordingly allowed.

17. Consequently, the applicant is ordered to be released, on bail, during the pendency of trial, arising out of **FIR No. 206 of 2025, dated 12.09.2025, under Sections 15 & 29 of the ND&PS Act**, registered with **Police Station Paonta Sahib, District Sirmour, H.P.**, on his furnishing personal bonds in the sum of Rs.50,000/-, with two sureties of the like amount each, to the satisfaction of the learned trial Court.

18. This order, however, shall be subject to the following conditions:-

“a) The 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 the appropriate application;

b) The applicant shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;



c) The 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) The applicant shall not leave the territory of India without the prior permission of the Court.”

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.

20. 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.

21. The Registry is directed to forward a soft copy of the bail order to the Superintendent of Jail, Model Central Jail Nahan, District Sirmaur, H.P., through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

22. In case, the applicant is not released within a period of seven days from the date of grant of bail, the Superintendent of Jail, Model Central Jail Nahan, District Sirmaur, H.P., is directed to inform this fact to the



Secretary, DLSA, Sirmaur, H.P. The Superintendent of Jail, Model Central Jail Nahan, District Sirmaur, H.P., 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

28th November, 2025
(Pramod Kumar)