

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****Cr. MP (M) No. : 2689 of 2025****Reserved on : 20th November, 2025****Decided on : 25th November, 2025**

Shubham Kashyap

...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. Lalit Kumar Sehgal, Advocate.

For the respondent : Mr. Tejasvi Sharma and Mr. H.S. Rawat, Additional Advocates General with Ms. Ranjna Patial, Deputy Advocate General, assisted by ASI Piar Singh, Police Station, West Shimla, District Shimla, H.P.

Virender Singh, Judge

Applicant-Shubham Kashyap, has filed the present application, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (hereinafter referred to as the 'BNSS'), seeking the relief of bail, during the pendency of the trial, arising out of **FIR No.159/2025, dated 16th September, 2025**, registered with **Police Station, West**

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



Shimla, District Shimla, H.P., under Section 21 of the Narcotic Drugs & Psychotropic Substances Act (hereinafter referred to as the 'NDPS Act').

2. According to the applicant, he is innocent person and has falsely been implicated and arrested, by the Police, in this case and presently, lodged in Sub-Jail, Kaithu.

3. It is the further case of the applicant that the contraband allegedly recovered, in the present case, does not fall within the definition of 'commercial quantity', as such, rigors of Section 37 of the NDPS Act are not applicable, in the present case.

4. As per the applicant, investigation, in the present case, is complete and no useful purpose would be served by keeping the applicant in judicial custody, that too, for indefinite period.

5. According to the applicant, apart from the present case, FIR No. 22 of 2024, dated 20.03.2024, under Sections 21 and 29 of the NDPS Act and FIR No.72/18 dated 17.06.2025, under Sections 341, 323, 506, 34 IPC, registered with Police Station East (Chhota Shimla), have



also been registered against him. Trial of these two cases is stated to be pending.

6. The applicant has earlier tried his luck, by moving similar application, before the Court of learned Special Judge, Shimla, however, his application has been dismissed on 31.10.2025.

7. Apart from this, Mr. Lalit Kumar Sehgal, 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, during the pendency of the trial.

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

9. When put to notice, the police has filed the status report, disclosing therein, that on 16.09.2025, ASI Sunil Kumar, I.O. SIU, Shimla, has submitted a rukka to Police Station West Shimla, mentioning therein, that on 16.09.2025, he, along with other police officials, was on patrolling duty and duty to detect crime, towards old Bus Stand and Boileauganj etc., side.



9.1. At about 8.20 p.m., when, the I.O. was present at Boileauganj crossing, then, he received a secret information about the fact that Taxi No.HP01A-6165, being driven by Shubham Kashyap (applicant), is coming from Chandigarh to Shimla. Said Shubham Kashyap is carrying Chitta/Heroin with him and in case, the said vehicle is intercepted, then, large quantity of contraband, i.e. Chitta/ Heroin, could be recovered.

9.2. The said information was found to be authentic and reliable. According to the I.O., in case of delay, the contraband, could be removed from there. As such, information under Section 42(2) of the NDPS Act, was prepared and submitted to the superior officer, through Constable Ajay Kumar No.1310.

9.3. Thereafter, the police party had put the picketing at Boileauganj crossing. Thereafter, the I.O. and other police officials stopped the vehicles crossing therefrom and the drivers were requested for being associated in the police proceedings. There was no house or shop near the spot, as such, no one could be associated as independent witness.



9.4. At about 8.45 p.m., a white coloured taxi bearing registration No.HP01A-6165, being driven by its driver, reached there from Chandigarh side. The I.O., stopped the said vehicle. When the I.O. inquired about the name and address of the driver, he has disclosed his name as Shubham Kashyap son of Balak Ram Kashyap resident of village Jhandar, Post Office Basantpur, Tehsil Sunni, District Shimla, H.P.

9.5. Thereafter, the I.O., apprised the applicant about the secret information, which, he had received and requested him to come out of the vehicle. The police party had given their personal search to the said person.

9.6. Thereafter, the vehicle was searched. From the dashboard, underneath the small mat, a light blue coloured transparent envelope was found. Apart from this, a half burnt currency note of Rs.10/-, issued by Nepal National Bank was found. When, the said plastic envelope was opened, the same was found containing light cream coloured stone shaped substance, which, on the basis of experience, was found to be Chitta/Heroin.



9.7. On weighment, the said Chitta was found to be containing 6.10 grams. The said contraband and the half burnt currency note of Rs.10/-, issued by Nepal National Bank, was taken into possession.

10. After completion of the codal formalities, the FIR was registered and the accused was arrested.

11. Thereafter, the contraband was produced before the Court of learned Additional Chief Judicial Magistrate, Court No.1, Shimla, where, the proceedings under Section 52-A(2) of the NDPS Act, were got conducted. The contraband was checked in the Court without polythene and was found to be 5.580 grams. Thereafter, the contraband was sent to SFSL Junga, from where, positive report has been received.

12. It has also been mentioned, in the status report, that as per the record, following two cases are found to have been registered against the applicant :-

- i) *FIR No.72/2018, dated 17.06.2025 (sic.), registered under Sections 341, 323, 506, 34 IPC, with Police Station Chhota Shimla, District Shimla.*
- ii) *FIR No.22/2024, dated 20.03.2024, registered under Sections 21 and 29 of the NDPS Act, with Police Station Chhota Shimla, District Shimla, H.P.*



13. It is the further case of the police that both the cases are under consideration. During investigation CDR and bank statements of the accused were obtained. However, no suspicious transactions were found.

14. It has also been mentioned, in the status report, that investigation, in the present case, is complete and the charge-sheet has been filed, in the Court of learned Sessions Judge, Shimla on 13.11.2025.

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

16. The contraband allegedly recovered, in the present case, is stated to be 6.10 grams and during the inventory proceedings, the same, when weighed without polythene, was found to be 5.580 grams. Admittedly, the said contraband, does not fall within the definition of 'commercial quantity', as such, rigors of Section 37 of the NDPS Act are not applicable, in the present case.

17. The investigation, in the present case, is complete and the applicant is in judicial custody. As such, this Court is of the view that no useful purpose would be served by keeping the applicant, in judicial custody, that



too, for indefinite period, as the chances of commencement and conclusion of the trial, against the applicant, in near future, are not so bright.

18. Moreover, the application cannot be rejected as a matter of punishment, as pre-trial punishment is prohibited under the law. Punishment can only be imposed, after the full fledged trial.

19. So far as registration of two cases, out of which, one is under the provisions of NDPS Act, is concerned, admittedly, in those cases, the applicant has not been convicted by the competent Court of law.

20. Mere registration of the cases, does not take away the presumption of innocence, which is still available to the applicant. A person is presumed to be innocent until proven guilty, after the trial.

21. Moreover, the status report is totally silent about the fact as to whether any effort has been made by the Police to get the bail, in those cases, cancelled.

22. The applicant is permanent resident of District Shimla, as such, it cannot be apprehended that in case, he



is ordered to be released on bail, he may not be available for the trial.

23. Considering all these facts, this Court is of the view that the bail application is liable to be allowed and is accordingly allowed. The applicant is ordered to be released on bail, in case **FIR No.159 of 2025, dated 16.09.2025**, registered, **under Section 21 of the NDPS Act**, with **Police Station, West Shimla, District Shimla, H.P**, on his furnishing personal bond, in the sum of Rs.50,000/-, with one surety, in the like amount, to the satisfaction of learned trial Court.

24. This order of release, however, shall be subject to the following conditions :-

- “a) 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 appropriate application;*
- b) Applicant shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;*
- c) 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) *Applicant shall not leave the territory of India without the prior permission of the Court."*

25. Any of the observations made herein above 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.

26. 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.

27. The Registry is directed to forward a soft copy of the bail order to the Superintendent of Jail, District Jail, Kaithu, District Shimla, through e-mail, with a direction to enter the date of grant of bail in the e-prison software.

28. In case, the applicant is not released within a period of seven days from the date of grant of bail, the Superintendent of Jail, District Jail, Kaithu, District Shimla, is directed to inform this fact to the Secretary, DLSA, Shimla. The Superintendent of Jail, District Jail, Kaithu, District Shimla, is further directed that if the applicant fails to furnish the bail bonds, as per the order



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passed by this Court, within a period of one month from today, then, the said fact be submitted to this Court.

November 25, 2025 (*ps*)

(Virender Singh)
Judge