

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**Cr.MP (M) No.28 of 2025**  
**Decided on : 24<sup>th</sup> February, 2025**

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Jaswinder Singh ...Applicant

Versus

State of Himachal Pradesh ...Respondent

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*Coram*

**The Hon'ble Mr. Justice Virender Singh, Judge.**

*Whether approved for reporting?<sup>1</sup>*

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For the applicant : Mr. Sanjeev K. Suri, Advocate.

For the respondent : Mr. Rohit Sharma, Deputy Advocate  
General, assisted by ASI Hardesh  
Kumar, I.O. Police Station,  
Mehatpur, District Una.

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**Virender Singh, Judge** (Oral)

Applicant-Jaswinder 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, in case FIR No.90 of 2024, dated 28.10.2024, registered under Section 15 of the Narcotic Drugs & Psychotropic Substances Act (hereinafter referred to as the 'NDPS Act'), with Police Station Mehatpur, District Una, H.P.

2. According to the applicant, he is innocent person and has falsely been implicated and arrested, by

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

the Police, in the present case, for allegedly possessing 25.240 kilograms of poppy husk.

3. It is the further case of the applicant that the contraband allegedly shown to be recovered from the possession of the applicant, 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. The applicant is stated to be in the judicial custody, as, after completion of investigation, the Police has filed the charge-sheet against him.

5. According to the applicant, the chances of conclusion of trial against the applicant in near future are not so bright, as such, no useful purpose would be served by keeping him in judicial custody.

6. The applicant has also tried his luck by moving similar Application before the learned Special Judge-II, Una, bearing Bail Application No.411 of 2024, however, the same was dismissed, vide order dated 19<sup>th</sup> December, 2024.

7. Apart from this, Mr. Sanjeev K. Suri, 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 28.10.2024, Inspector Sarvjeet Singh, Incharge ANTF-FU-CID, Kangra, along with other police officials, was on patrolling duty to detect the crime relating to Narcotic drugs, in the area of Una, Mehatpur etc.

9.1. At about 11.50 a.m., when, he was present in the market, he received a secret information with regard to transportation of poppy husk in vehicle No. HP72C-8691, by a person and the said person, as per the informant, was coming from Nangal side.

9.2. As per the information, if the said vehicle is detained and searched, then, the large quantity of poppy husk could be recovered.

9.3. The said information was found to be authentic and reliable. As per the I.O., in case, he would have obtained search warrants, in that situation, possibility of removal of the contraband from the spot, could not be ruled out. As such, the I.O. has complied with the provisions of Section 42(2) of the NDPS Act and submitted the report to the Additional Superintendent of Police.

9.4. Thereafter, the I.O. had associated two independent witnesses, after apprising them about the secret information.

9.5. Thereafter, at about 12.25 p.m., the said vehicle was intercepted and during search of said vehicle, poppy husk, weighing 25.240 kilograms was recovered.

9.6. Thereafter, other codal formalities were completed and rukka was sent to the Police Station for registration of the FIR, on the basis of which, the FIR, in question was registered. The contraband, so recovered, was sent to FSL Junga, from where a positive report has been received.

9.7. After completion of the investigation, the police has submitted the charge sheet against the applicant,

which is pending adjudication before the Court of learned Additional Sessions Judge-II, Una.

10. As per the status report, another case bearing FIR No.118 of 2021, dated 07.04.2021, under Section 15 of the NDPS Act, is found to have been registered, against the applicant, in which, he was allegedly found to be in possession of 16.980 kilograms of poppy husk.

11. On the basis of the above facts, a prayer has been made to dismiss the application, mainly on the ground that due to the act of the applicant, there is a lot of resentment in the general public. The act of the applicant is also stated to be against the young generation.

12. Apart from this, it has also been apprehended that in case, the applicant is ordered to be released on bail, he may not be available for trial and he may again indulge in the same activities. Hence, a prayer has been made to dismiss the application.

13. Heard.

14. Admittedly, in the another case, which has been registered against the applicant, he has not been convicted by the competent Court of law so far.

15. Mere registration of the case does not take away the presumption of innocence from the applicant.

16. So far as the other apprehensions are concerned, stringent conditions can be imposed, in case, the applicant is ordered to be enlarged on bail.

17. Admittedly, the contraband allegedly recovered from the possession of the applicant 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.

18. The applicant is in judicial custody, from the date of his arrest. Moreover, chances of commencement and conclusion of trial, against the applicant, are not so bright, as such, no useful purpose would be served, by keeping him in judicial custody, that too, for indefinite period. Even otherwise, the pre-trial punishment is prohibited under the law.

19. Considering all these facts, this Court is of the view that the bail application is liable to be allowed and is accordingly allowed. Consequently, the applicant is ordered to be released on bail in case FIR No.90 of 2024,

dated 28.10.2024, under Section 15 of the NDPS Act, registered with Police Station, Mehatpur, District Una, 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.

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

- “a) Applicant shall make himself available for the purpose of interrogation, if so required and 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 Office; and*
- d) Applicant shall not leave the territory of India without the prior permission of the Court.”*

21. 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.

22. 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.

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

24. 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, Una, District Una, is directed to inform this fact to the Secretary, DLSA, Una. The Superintendent of Jail, District Jail, Una, District Una, 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**

**February 24, 2025**<sub>(ps)</sub>