

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****Cr.MP(M) No.1023 of 2026
Decided on: 29.06.2026**

Tripta DeviPetitioner
Versus
State of Himachal PradeshRespondent

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.Whether approved for reporting? ¹

For the Petitioner : Mr. N.S. Chandel, Senior Advocate with Mr. Vinod Kumar Gupta & Ms. Kanika Verma, Advocates.

For the Respondent : Mr. Rajan Kahol, Additional Advocate General with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General.

ASI Kamal Dev, Police Station Rakkar, PD Dehra, District Kangra, HP present in person.

Sandeep Sharma, Judge (oral):

Sequel to order dated 08.06.2026, whereby petitioner was ordered to be enlarged on interim bail in FIR No. 31 of 2026 dated 27.05.2026, under Sections 21 & 29 of

¹ Whether the reporters of the local papers may be allowed to see the judgment?

ND & PS Act, registered at Police Station Rakkar, District Kangra, HP, respondent-State has filed status report prepared on the basis of the investigation carried out by the Investigating Agency and ASI Kamal Dey has come present with record.

2. Close scrutiny of status report/record reveals that on 27.05.2026, police, after having received secret information that bail-petitioner indulges in illegal trade of narcotics, constituted raiding team and proceeded towards the house of the bail-petitioner. Since house of the petitioner was found locked, Investigating Officer telephonically apprised the bail-petitioner with regard to intention of the Investigating team to conduct search of her house. Bail-petitioner, who at the relevant time was at Chandigarh, allegedly requested the Police officials to wait and thereafter conduct the search of her house in the presence of her daughters namely Pratibha @ Preeti and Pratiksha Sharma. Above named Pratibha @ Preeti along with her younger sister

named hereinabove reached on the spot and opened the house. Allegedly police, after having associated independent witnesses, recovered 15 grams of chitta, which was allegedly kept below the roof slates laid over the toilet adjacent to the kitchen. Since envelope containing aforesaid quantity of contraband had the name of the Pratibha @ Preeti on it, police after having completed necessary codal formalities, arrested Pratibha @ Preeti. Since contraband came to be recovered from the house the bail-petitioner, she also came to be named in the FIR, but before she could be arrested, she approached this Court in the instant proceedings for grant of anticipatory bail.

3. Vide order dated 08.06.2026, this Court granted anticipatory bail to the petitioner subject to her joining investigation. Since pursuant to direction issued by this Court, bail-petitioner has already joined the investigation and nothing remains to be recovered from her, prayer has been

made on behalf of the petitioner for making order dated 08.06.2026 absolute.

4. While fairly acknowledging factum with regard to joining the investigation by the petitioner, pursuant to order dated 08.06.2026 passed by this Court, Mr. Rajan Kahol, learned Additional Advocate General, on instructions of the Investigating Officer, who is present in Court, states that though petitioner has joined investigation, but has not cooperated with the Investigating Agency. He states that till date bail-petitioner has not disclosed the reason for which she had gone to Chandigarh and she has also not submitted any documents with regard to treatment, if any, being taken by her from Chandigarh. Mr. Kahol states that since contraband came to be recovered from the house of the bail-petitioner, no illegality can be said to have been committed by the Investigating Agency, while registering the case against her under Sections 21 & 29 of ND & PS Act. He states that there is overwhelming evidence adduced on record suggestive

of the fact that bail-petitioner indulges in illegal trade of narcotics and as such, in the event of her being enlarged on bail, she may not only flee from justice, but may again indulge in these activities.

5. Having heard learned counsel for the parties and perused material available on record, this Court finds that at the time of recovery of contraband, bail-petitioner was not present at her house, rather recovery was effected in the presence of her daughters as well as other independent witnesses. Investigating Agency, after having noticed the name of the co-accused Pratibha @ Preeti on the envelope containing the contraband, has already arrested the co-accused Pratibha @ Preeti, who is daughter of the present bail-petitioner.

6. True it is that contraband came to be recovered from the house of the bail-petitioner, but once police, after being satisfied that contraband was sent to co-accused Pratibha @ Preeti, has already arrested Pratibha @ Preeti,

coupled with the fact that bail-petitioner, after having received telephonic call from Investigating officer, herself offered for checking of her house, there appears to be no justification for custodial interrogation of the bail-petitioner.

7. True it is that both the daughters of the bail-petitioner including Pratibha @ Preeti are married, but such fact may not be reason to conclude that contraband recovered from the house of the bail-petitioner belongs to the bail-petitioner, rather having taken note of the fact that at the time of recovery, keys of the house were with co-accused Pratibha @ Preeti, coupled with the fact that she resides at her sister's house, which is at a distance of 4-5 Kms from the house of the bail-petitioner, this Court has reason to presume and believe that contraband allegedly recovered from the house of the bail-petitioner was of co-accused Pratibha @ Preeti, who has already been arrested. In case contraband was hidden by the bail-petitioner, as is being claimed by the learned Additional Advocate General, there was no occasion,

if any, for the Investigating Agency to arrest the co-accused Pratibha @ Preeti. Investigating Agency, after having noticed name of the co-accused Pratibha @ Preeti on envelope containing contraband, had already arrived at conclusion that same was of co-accused Pratibha @ Preeti. Needless to say, parents cannot be held liable for contraband, if any, kept by their child. Once in the instant case, police itself was convinced that contraband allegedly recovered from the house of the bail-petitioner was of the co-accused Pratibha @ Preeti, who happens to be daughter of the bail-petitioner, coupled with the fact that pursuant to direction issued by this Court, petitioner has already joined investigation, this Court sees no reason to grant custodial interrogation of the bail-petitioner.

8. However, having taken note of the fact that police, after being convinced that contraband belongs to co-accused Pratibha @ Preeti, has already arrested above named person, interim order dated 08.06.2026 passed by this Court, thereby

granting anticipatory bail in favour of the bail-petitioner deserves to be made absolute.

9. By now it is well settled that freedom of an individual is of utmost importance and cannot be curtailed for indefinite period. Till the time guilt of accused is not proved, in accordance with law, he is deemed to be innocent. In the case at hand, the guilt, if any, of the bail petitioner is yet to be proved, in accordance with law.

10. The Hon'ble Apex Court in Criminal Appeal No.227/2018, **Dataram Singh vs. State of Uttar Pradesh & Anr** decided on 6.2.2018 has categorically held that freedom of an individual is of utmost importance and same cannot be curtailed merely on the basis of suspicion. Hon'ble Apex Court has further held that till the time guilt of accused is not proved, in accordance with law, he is deemed to be innocent. The relevant paras No.2 to 5 of the judgment are reproduced as under:-

2. A fundamental postulate of criminal jurisprudence is the presumption of innocence, meaning thereby that a person is believed to be innocent until found guilty. However, there are instances in our criminal law where a reverse onus has been placed on an accused with regard to some specific offences but that is another matter and does not detract from the fundamental postulate in respect of other offences. Yet another important facet of our criminal jurisprudence is that the grant of bail is the general rule and putting a person in jail or in a prison or in a correction home (whichever expression one may wish to use) is an exception. Unfortunately, some of these basic principles appear to have been lost sight of with the result that more and more persons are being incarcerated and for longer periods. This does not do any good to our criminal jurisprudence or to our society.

3. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this Court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstances of a case.

4. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge sheet is filed. Similarly, it is important to ascertain

whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of being victimised, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to [Section 436](#) of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting [Section 436A](#) in the Code of Criminal Procedure, 1973.

5. To put it shortly, a humane attitude is required to be adopted by a judge, while dealing with an application for remanding a suspect or an accused person to police custody or judicial custody. There are several reasons for this including maintaining the dignity of an accused person, howsoever poor that person might be, the requirements of [Article 21](#) of the Constitution and the fact that there is enormous overcrowding in prisons, leading to social and other problems as noticed by this Court in *In Re-Inhuman Conditions in 1382 Prisons*

11. Needless to say, object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should

be granted or refused is whether it is probable that the party will appear to take his trial. Otherwise, bail is not to be withheld as a punishment. Otherwise also, normal rule is of bail and not jail. Court has to keep in mind nature of accusations, nature of evidence in support thereof, severity of the punishment which conviction will entail, character of the accused, circumstances which are peculiar to the accused involved in that crime.

12. The Hon'ble Apex Court in ***Sanjay Chandra versus Central Bureau of Investigation*** (2012)¹ Supreme Court Cases 49; held as under:-

“The object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The Courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. Detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted

persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test. In India, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the propose of giving him a taste of imprisonment as a lesson."

13. The Hon'ble Apex Court in **Prasanta Kumar Sarkar v. Ashis Chatterjee and Another** (2010) 14 SCC 496, has laid down the following principles to be kept in mind, while deciding petition for bail:

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;

- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by grant of bail.

14. Consequently, in view of the above, order dated 08.06.2026 passed by this Court, is made absolute, with following conditions:-

- a. she shall make herself 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. she shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever;
- c. she shall not make any inducement, threat or promises to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or the Police Officer; and
- d. she shall not leave the territory of India without the prior permission of the Court.

15. It is clarified that if the petitioner misuses her liberty or violates any of the conditions imposed upon her, the Investigating Agency shall be free to move this Court for cancellation of the bail.

16. Any observations made hereinabove shall not be construed to be a reflection on the merits of the case and shall remain confined to the disposal of this application alone.

17. The bail petition stands disposed of accordingly. The petitioner is permitted to produce copy of order downloaded from the High Court website and the trial Court shall not insist for certified copy of the order, however, it may verify the order from the High Court website or otherwise.

June 29, 2026
(sunil)

(Sandeep Sharma),
Judge