
Amit Kumar @ Ravi Vs State Of H.P

Criminal Miscellaneous Petition (M) No. 1885 Of 2020

Court: High Court Of Himachal Pradesh

Date of Decision: Nov. 20, 2020

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 438, 439#Narcotic Drugs And Psychotropic Substances Act, 1985 " Section 29#Himachal Pradesh Excise Act, 2011 " Section 39(1)(a)

Hon'ble Judges: Vivek Singh Thakur, J

Bench: Single Bench

Advocate: Umesh Kanwar, Raju Ram Rahi

Final Decision: Disposed Of

Judgement

Vivek Singh Thakur, J

1. This petition has been preferred, seeking regular bail under Section 439 Cr.P.C, in case FIR No. 132 of 2020 dated 27.08.2020 registered in Police

Station, Talai, District Bilaspur, H.P., wherein petitioner has been arrayed as an accused under Section under Section 29 of Narcotics Drugs and

Psychotropic Substances Act on the basis of disclosure statement of main accused Kaku Khan during his interrogation when he was in custody after

his arrest for having been found in possession of charas weighing 100.17 grams.

2. The quantity of contraband alleged to have been recovered from the main accused Kaku Khan is 0.17 grams higher than the small quantity.

Accused Kaku Khan was arrested on 27.08.2020 and he has been enlarged on bail by learned Special Judge, Bilaspur vide order dated 05.09.2020

passed in Bail Application No. 199/22 of 2020.

3. Petitioner had preferred an application, Cr.M.P(M) No. 1583 of 2020 under Section 438 Cr.P.C in this Court, wherein it was found that he had also

filed a similar application before learned Special Judge, Bilaspur, but the said fact was concealed in the bail application filed in this Court, therefore,

bail application preferred by him was dismissed by this Court on 17.09.2020. Thereafter, petitioner has been arrested on 23rd September, 2020 and

after his arrest, he had preferred bail application No. 229/22 of 2020 on 29.09.2020 before learned Special Judge, Bilaspur, but the said bail application

was dismissed on 15.10.2020.

4. Status report stands filed, wherein it is stated that the investigation is complete and the file has been submitted to the Government Advocate for

checking.

5. It is case of the prosecution that on disclosure by the main accused Kaku Khan, during investigation, of the fact that he had purchased the

contraband from present petitioner Amit Kumar, Amit Kumar was arrayed as an accused in this case and after his arrest, during interrogation, he

admitted the sale of contraband to main accused Kaku Khan for Rs.12,000/- and giving of that amount to his father as his income from some other

sources and further that he had also admitted that he had purchased the contraband from some truck Driver, whose name and address was not known

to him. Lastly, it is stated that on earlier occasions also, petitioner had been found involved in commission of offence of similar nature and in the years

2018 and 2019, he was accused in FIR No. 285/2018 dated 19.11.2018, registered under Section 39(1) (a) of H.P. Excise Act in Police Station,

Nalagarh and another case FIR No. 27/2019 dated 28.03.2019 was also registered against petitioner Amit Kumar under Section 29 of NDPS Act.

6. Petitioner is behind the bars since September, 2020 and main accused Kaku Khan has been enlarged on bail. Except disclosure statement of

accused during interrogation, no other material has been brought in the notice of this Court by the prosecution for substantiating the disclosure

statement of the accused. The veracity of the disclosure statement is yet to be evaluated by the trial Court during trial.

7. In the facts and circumstances discussed hereinabove, petitioner is also entitled for bail at this stage. Accordingly, he is ordered to be enlarged on

bail subject to furnishing personal bond in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the learned Special Judge/trial

Court, Bilaspur within two weeks from today and also subject to the following conditions:-

i) That the petitioner shall make himself available to the police or any other Investigating Agency or Court in the present case as and when required;

ii) that the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to

dissuade him/her from disclosing such facts to Court or to any Police Officer or tamper with the evidence. He shall not, in any manner, try to overawe

or influence or intimidate the prosecution witnesses;

iii) that he shall not obstruct the smooth progress of the investigation/trial;

iv) that the petitioner shall not commit the offence similar to the offence to which he is accused or suspected;

v) that the petitioner shall not misuse his liberty in any manner;

vi) that the petitioner shall not jump over the bail;

vii) that he shall furnish proof of his place of ordinary residence like certificate of Panchayat or any other authority which may be placed where his

mother, brother or wife are residing and he shall keep on informing about the change in address, landline number and/or mobile number, if any, for his

availability to Police and/or during trial; and

viii) he shall not leave India without permission of the Court.

ix) In case petitioner is again found to have involved in commission of similar offence or any other offence related to supply of drugs, in such

eventuality, his bail in the present case shall be liable to be cancelled, on taking appropriate steps by the prosecution.

8. It will be open to the prosecution to apply for imposing and/or to the trial Court to impose any other condition on the petitioner as deemed necessary

in the facts and circumstances of the case and in the interest of justice.

9. In case the petitioner violates any conditions imposed upon him him, his bail shall be liable to be cancelled. In such eventuality prosecution may

approach the competent Court of law for cancellation of bail, in accordance with law.

10. Learned trial Court is directed to comply with the directions issued by the High Court, vide communication No. HHC.VIG./Misc. Instructions/93-

IV.7139 dated 18.03.2013.

11. Observations made in this petition hereinbefore shall not affect the merits of the case in any manner and are strictly confined for the disposal of

the bail application.

12. 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, he may verify the order from the High Court website or otherwise.

13. The petition stands disposed of in the aforesaid terms.

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