

(2022) 09 SHI CK 0063

High Court Of Himachal Pradesh

Case No: Criminal Miscellaneous Petition (Main) No. 1401 Of 2022

Satish Kumar

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision: Sept. 22, 2022**Acts Referred:**

- Narcotic Drugs And Psychotropic Substances Act, 1985 - Section 21, 22, 29

Hon'ble Judges: Vivek Singh Thakur, J**Bench:** Single Bench**Advocate:** Dheeraj K. Vashisht, Rameeta Rahi**Final Decision:** Disposed Of

Judgement

Vivek Singh Thakur, J

1. Petitioner has approached this Court seeking regular bail in case FIR No. 71 of 2022, dated 4.4.2022, registered under Section 22 of Narcotic Drugs

and Psychotropic Substances Act (for short "NDPS Act") in Police Station Paonta Sahib, District Sirmour, H.P.

2. Status report stands filed. Record was also made available.

3. In the status report, circumstances in which intermediate quantity of Capsules and Tablets Parvion Spas, Parvion Spas Plus, Becalm, containing

Tramadol and Alprazolam were recovered on 4.4.2022 from shop of petitioner, have been narrated in detail.

4. After recovery of aforesaid Capsules and Tablets ruckka was sent to Police Station, on the basis of which, FIR was registered and petitioner was

arrested on the same date i.e. 4.4.2022 and after remaining in Police custody till 8.4.2022, he is in judicial custody.

5. Learned counsel for the petitioner has submitted that petitioner is behind the bars since last about five months and further that as a matter of fact

petitioner himself is an addict and his family has planned to take him in rehabilitation/de-addiction centre for his reformation, therefore, petitioner

deserves to be enlarged on bail at this stage. He has also referred the contents of the status report, wherein it has been stated that petitioner has been

begging for pardon with undertaking not to repeat such incident in future as he is feeling guilty for the offence committed.

6. Learned Additional Advocate General has pointed out that earlier also a case FIR No. 223 of 2018, dated 9.8.2018, under Sections 21 and 29 of

NDPS Act, has been registered against petitioner in Police Station, Paonta Sahib, District Sirmour, H.P. and trial wherein is pending adjudication in the

Court of Additional Sessions Judge, Sirmour at Nahan and, therefore, prayer has been made for rejection of bail application.

7. Learned counsel for the petitioner has submitted that taking into consideration the fact that petitioner requires treatment for his rehabilitation and de-

addiction, for which his family has planned immediately after his enlargement on bail, quantity of contraband recovered from the petitioner is

intermediate, petitioner is behind the bars since last more than five months and also desire of the petitioner to reform, petitioner deserves to be

enlarged on bail for giving him a chance for his reformation. It has further submitted that pendency of another case in the Court against the petitioner,

keeping in view the peculiar facts and circumstances of the present case, would not be relevant for considering the case of the petitioner for enlarging

him on bail.

8. Without commenting upon merits of the case, but taking into consideration material placed before me, submissions made by both sides and taking

note of factors and parameters required to be considered at the time of adjudication of bail as propounded by the Courts including the Supreme Court,

I am of the considered opinion that at this stage petitioner may be enlarged on bail.

9. Accordingly, petitioner is ordered to be enlarged on bail on furnishing personal bond in the sum of Rs.50,000/- with one surety in the like amount, to

the satisfaction of trial Court and upon such further conditions as may be deemed fit and proper by the trial Court, including the conditions enumerated

hereinafter, so as to assure presence of the petitioner at the time of trial:-

(i) That the petitioner shall join the investigation and attend the Court as and when directed to do so by the Investigating Agency/Court;

(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 the petitioner 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 the petitioner shall keep on informing about the change in address, landline number and/or mobile number, if any, for their availability to Police

and/or during trial;

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

10. 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, enlarged on bail, as

deemed necessary in the facts and circumstances of the case and in the interest of justice and thereupon, it will also be open to the trial Court to

impose any other or further condition on the petitioner as it may deem necessary in the interest of justice.

11. In case the petitioner violates any conditions imposed upon 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.

12. 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.

13. 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.

14. The parties are permitted to produce copy of order downloaded from the High Court website and trial Court shall not insist for certified copy of the order, however, if required, passing of order can be verified from the High Court website or otherwise.

The petition stands disposed of in the aforesaid terms.