

Ram Krishan Vs State Of Himachal Pradesh

Criminal Miscellaneous Petition (Main) No. 2197 Of 2022

Court: High Court Of Himachal Pradesh

Date of Decision: Oct. 28, 2022

Acts Referred:

Narcotic Drugs And Psychotropic Substances Act, 1985 " Section 18

Hon'ble Judges: Satyen Vaidya, J

Bench: Single Bench

Advocate: S.K. Banyal, Narender Thakur

Final Decision: Allowed

Judgement

Satyen Vaidya, J

1. Petitioner is an accused in case FIR No. 32 of 2022 dated 29.3.2022, under Section 18 of the Narcotic Drugs & Psychotropic Substances Act, 1985,

registered at Police Station Padhar, District Mandi, H.P.

2. The petitioner was admitted to interim bail on 28.9.2022. The petitioner is stated to have joined the investigation thereafter.

3. Status report filed on behalf of the respondent reveals that on 29.3.2022, police visited village Bulhang within the jurisdiction of Police Station,

Padhar, District Mandi, H.P. and discovered 3050 cultivated poppy plants in different fields. The revenue staff could not be associated on the date of

discovery and as such, the identification of land could not be ascertained. Six plants were preserved as samples and the rest of the poppy plants were

destroyed. The case was registered. Investigation was carried and during investigation, the revenue staff was associated on 18.4.2022. It was found

that the land on which poppy plants were cultivated belonged to many persons as co-owners and father of petitioner was one of the co-owners.

Petitioner was implicated on the basis of the version provided by other co-owners that the land in question was in exclusive cultivation of the

petitioner.

4. Petitioner has prayed for pre-arrest bail on the grounds that he is innocent and has been falsely implicated. As per petitioner, he has nothing to do

with the land on which the poppy plants were allegedly cultivated. Petitioner has undertaken to abide by the terms and conditions, as may be imposed

against him.

5. I have heard learned counsel for the parties and have also gone through the case file carefully.

6. The petitioner has been implicated primarily on the basis of the statements of the recorded owners of the land on which poppy plants were allegedly

cultivated. Admittedly, petitioner is not recorded in revenue records being in cultivation possession of the land in question. Though, at the stage of

deciding bail application, this Court is not to minutely scan the evidence collected during investigation, still such material can always be looked into for

the purposes of assessing seriousness and gravity of allegations against the petitioner. In absence of any documentary evidence against the petitioner,

it cannot be said with certainty at this stage that the statements given by the recorded owners of the land are correct.

5. In any case, the investigation is almost complete. Nothing is to be recovered from the petitioner. Petitioner has already joined the investigation and

there is no allegation against the petitioner that he has tried to evade the police.

6. Petitioner is permanent resident of Village Bulhang, Post Office Sudhar, Tehsil Padhar, District Mandi, H.P. and there is no likelihood of his

absconding from the course of justice. No criminal antecedents have been attributed to the petitioner.

7. The allegations against the petitioner are yet to be proved. No fruitful purpose shall be served by allowing the petitioner to be kept in custody. The

only concern of the Court at this stage is to facilitate fair and expeditious completion of trial, which can be done by imposing appropriate conditions.

8. In view of peculiar facts and circumstances of the case, petition is allowed and in the event of arrest of the petitioner in case FIR No. 32 of 2022

dated 29.3.2022, under Section 18 of the Narcotic Drugs & Psychotropic Substances Act, 1985, registered at Police Station Padhar, District Mandi,

H.P., he shall be released on bail, subject to his furnishing personal bond in the sum of Rs. 25,000/- with one surety in the like amount to the

satisfaction of the Arresting Officer/Investigating Officer. This order, however, shall be subject to following conditions:

i) That the petitioner shall make himself available during the entire trial of the case.

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 from disclosing such facts to the Court or to the Police.

iii) That breach of any of the bail condition by the petitioner shall entail cancellation of the bail.

iv) That the petitioner shall not leave India without the prior permission of the Court.

9. Any observation made herein above shall not be taken as an expression of opinion on the merits of the case and the trial Court shall decide the

matter uninfluenced by any observation made herein above.