

Praveen Vs State Of Himachal Pradesh

Court: High Court Of Himachal Pradesh

Date of Decision: Feb. 14, 2023

Acts Referred: Code Of Criminal Procedure, 1973 " Section 439
Narcotic Drugs And Psychotropic Substances Act, 1985 " Section 21, 29

Hon'ble Judges: Satyen Vaidya, J

Bench: Single Bench

Advocate: Harish Sharma, Vipam Rajta, B.C. Verma, Pranay Pratap Singh

Final Decision: Allowed

Judgement

Satyen Vaidya, J

1. By way of instant petition, a prayer has been made for grant of bail under Section 439 of the Code of Criminal Procedure on behalf of the petitioner

in case registered vide FIR No.158/2022 dated 16.12.2022 at Police Station, Theog, District Shimla.

2. Petitioner was apprehended by the Police alongwith two others, namely, Satyam Panchal and Karan Sharma in a vehicle bearing registration

No.DL-8CBD-6599 on 16.12.2022 at 3:30 p.m. at place named Nangal Devi in Tehsil Theog, District Shimla. The apprehension of petitioner and other

co-accused was on the basis of prior information. Petitioner was found occupying the Driver seat, whereas, Karan Sharma was on front passenger

seat and Satyam Panchal was on the rear seat of the vehicle. 76.51 grams of Chitta/Heroin was recovered from the vehicle.

3. Learned counsel for the petitioner has placed on record a copy of order dated 8.2.2023 passed by a Co-ordinate Bench of this Court, in Cr.MP(M)

No.218/2023, whereby, co-accused of petitioner, namely, Satyam Panchal has been ordered to be released on bail and, in fact, has been so released.

Learned counsel for the petitioner has made a statement that petitioner is also entitled for grant of bail on the ground of parity.

4. The prayer is opposed by learned Additional Advocate General by distinguishing the case of the petitioner on the ground that the vehicle belonged to

the petitioner and in the case of Satyam Panchal, he was only an occupant of the vehicle.

5. Having given my thoughtful consideration to the rival submissions, I am of the view that petitioner is entitled for grant of bail in above noted case on

the ground of parity. It is not the case of Investigating Agency that all the three occupants of the vehicle had different role in the crime. All of them

have been implicated on the allegation that they were in joint conscious possession of the contraband.

6. Keeping in view the fact that his co-accused has already been released on bail by a Co-ordinate Bench of this Court, no distinction can be drawn in

the case of petitioner.

7. Accordingly, petition is allowed and the petitioner is ordered to be released on bail in case FIR No.158/2022 dated 16.12.2022, registered at Police

Station, Theog, District Shimla, under Sections 21, 29 of the Narcotic Drugs and Psychotropic Substances Act, 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 or in absence of functioning of such Court, to the

satisfaction of any Judicial Magistrate First Class in station. This bail order is, however, subject to the following conditions:-

(i) That the petitioner will appear before the Court and the Investigating Officer whenever required;

(ii) That he will 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 any facts to the Court or the police;

(iii) That he will not tamper with the prosecution evidence nor he will try to win over the prosecution witnesses or terrorize them in any manner;

(iv) That he will not repeat the offence, as is alleged to have been committed by him;

(v) That he will not deliberately and intentionally act in a manner which may tend to delay the investigation or the trial of the case.

(vi) That he will not leave India without prior permission of the Court.

8. Needless to say that the Investigating Agency shall be at liberty to move this Court for cancellation of the bail, if any of the aforesaid conditions is

violated by the petitioner.

9. Be it stated that any expression of opinion given in this order does not mean an expression of opinion on the merits of the case and the trial Court

will not be influenced by any observations made therein.

All pending application(s), if any, shall also stand disposed of.