
Mandeep Singh Vs State Of Himachal Pradesh

Criminal Miscellaneous Petition (Main) No. 2004 Of 2023

Court: High Court Of Himachal Pradesh

Date of Decision: Aug. 25, 2023

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 439#Narcotic Drugs And Psychotropic Substances Act, 1985 " Section 21, 25, 29, 37

Citation: (2023) 08 SHI CK 0138

Hon'ble Judges: Sushil Kukreja, J

Bench: Single Bench

Advocate: Parveen Chandel, Raj Kumar Negi

Final Decision: Allowed

Judgement

Sushil Kukreja, J

1. By way of instant petition, filed under Section 439 of the Criminal Procedure Code, the petitioner is seeking bail in case F.I.R. No. 75/2023, dated

17.07.2023, registered at Police Station East Shimla, District Shimla, H.P., under Sections 21, 29 & 25 of the Narcotic Drugs and Psychotropic

Substances Act (hereinafter referred to as "NDPS Act").

2. The prosecution story, in brief, is that on 17.07.2023, the police party was on routine patrolling duty. At about 12.10 A.M. in the midnight, they saw

a vehicle bearing registration No. HP10A-1363, parked near Krishna Dhaba at Shakrala-Mehli-Malyana road. In the said vehicle four persons were

sitting. On asking them as to what they were doing in the vehicle, they got perplexed and could not give any satisfactory answer. On suspicion, the

police party stopped 5-6 vehicles on the spot and asked them to become independent witness in the proceedings. However, no one was ready and

willing to become witness, as such, Constable Dinesh Kumar No. 746 and Constable Varun Joshi No. 289 were associated as witnesses in the

proceedings, in whose presence, the person sitting on the driver seat of the vehicle disclosed his name as Vijay Chauhan, the person sitting on co-

driver seat of the vehicle disclosed his name as Javpreet Singh and persons sitting on rear seat of the vehicle disclosed their names as Mandeep Singh,

S/o Sh. Ramanjeet Singh (petitioner herein) and Mandeep Singh, S/o Sh. Baljeet Singh. Thereafter, the vehicle was searched and during search of the

vehicle, inside the armrest the police recovered a transparent polythene packet, which was containing chitta/heroin. On weighment, the recovered

heroin was found to be 13.78 grams. Thereafter, the police completed all the codal formalities and FIR as detailed hereinabove was registered against

the accused persons and they were arrested.

3. The bail petition has been filed on the ground that the petitioner is innocent and has been falsely implicated in this case. Learned counsel for the

petitioner has contended that investigation in this case is complete and nothing remains to be recovered at the instance of the petitioner, as such, he

deserves to be released on bail. He further contended that one of the co-accused namely Vijay Chauhan has already been released on bail by the

Court of learned Special Judge (CBI), Shimla on 05.08.2023, therefore, the petitioner also deserves to be released on bail on the ground of parity.

4. Per contra, learned Additional Advocate General opposed the bail application on the ground that keeping in view the gravity of the offence alleged

to have been committed by the petitioner, he is not entitled to be enlarged on bail.

5. I have heard the learned counsel for the petitioner as well as learned Additional Advocate General and have also gone through the record of the

case. The perusal of the record indicates that the quantity of chitta/heroin, involved in the present case is 13.78 grams, which is an intermediate

quantity. Therefore, rigors of Section 37 of the NDPS Act are not applicable in the present case. The petitioner was arrested on 17.07.2023 and since

then he is behind the bars. There is no evidence on record to suggest that the petitioner will tamper with the prosecution evidence or will flee from

justice, if released on bail. Moreover, the trial may take sufficiently long time to conclude, therefore, no fruitful purpose will be served if the petitioner

is kept behind the bars for an unlimited period. Furthermore, one of the co-accused namely Vijay Chauhan has already been released on bail by the

Court of learned Special Judge (CBI), Shimla on 05.08.2023, as such, the petitioner also deserves to be released on bail on the ground of parity.

6. Considering the overall facts and circumstances of the case and since the quantity of heroin involved in this case is 13.78 grams, which is an

intermediate quantity, this Court finds that the present is a fit case where judicial discretion to admit the petitioner on bail is required to be exercised in

his favour. Accordingly, the bail application is allowed and it is ordered that the petitioner, who has been arrested by the police, in case F.I.R. No.

75/2023, dated 17.07.2023, registered at Police Station East Shimla, District Shimla, H.P., under Sections 21, 29 & 25 of NDPS Act, shall be forthwith

released on bail, subject to his furnishing personal bond to the tune of Rs. 1,00,000/- (Rupees one lac), with one local surety of District Shimla in the

like amount to the satisfaction of learned Trial Court. This bail order is subject, however, 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 terrorise 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.

7. 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.

8. 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.