

(2016) 09 SHI CK 0058

High Court of Himachal Pradesh

Case No: Cr. MP (M) No.1120 of 2016

Abhay Walia

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision: Sept. 27, 2016

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 439
- Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) - Section 20, Section 29

Citation: (2016) sup HimLR 2802

Hon'ble Judges: Mr. Chander Bhusan Barowalia, J.

Bench: Single Bench

Advocate: Mr. Prashant Chaudhary, Advocate, for the Petitioner; Mr. Virender Kumar Verma, Addl. Advocate General with Mr. Pushpinder Singh Jaswal, Dy. Advocate General. SI Nand Lal, I.O. P.S. Sundernagar, District Mandi, H.P, for the Respondent

Final Decision: Disposed Off

Judgement

Chander Bhusan Barowalia, J. - The present bail application is maintained by the petitioner under Section 439 of the Code of Criminal Procedure for releasing him on bail in case FIR No. 234 of 2016, dated 13.9.2016, under Section 20 of Narcotic Drugs & Psychotropic Substances Act, 1985 (hereinafter referred to as "the Act"), registered at Police Station, Sundernagar, District Mandi, H.P. In this case, the police report stands file.

2. As per the prosecution story, bus of Himachal Pradesh Road Transport Corporation, bearing registration No. HP 28A-1412, was on its way from Manali to Chandigarh was stopped by the Police near Rest House Chowk and on checking the petitioner was found carrying 104 grams of charas. Accordingly, he was apprehended after following the procedure.

3. Learned Counsel appearing on behalf of the petitioner has argued that the petitioner is innocent and is falsely implicated in this case and he may be released

on bail. He has further argued that even the quantity of 104 grams shows that it was little more than 100 grams. The petitioner is a student and he may be released on bail under the above mentioned circumstances.

4. Learned Additional Advocate General has argued that the petitioner has committed serious crime and, in fact, he is spoiling his as well as the lives of other students and the manner in which the crime has been committed makes it a fit case where the judicial discretion is not required to be exercised in favour of the petitioner.

5. To appreciate the arguments of the learned counsel for the parties, I have gone through the police file and relevant record carefully.

6. Taking into consideration the over all aspects of the case and without discussing them at this stage, this Court finds that the petitioner is permanent resident of District Mandi, Himachal Pradesh and there are no chances of the petitioner to tamper with the prosecution evidence and flee from justice. The interest of justice demands that judicial discretion to admit the petitioner on bail is required to be exercised in favour of the petitioner. So, it is ordered that the petitioner be released on bail, on furnishing personal bond to the sum of Rs. 50,000/- (rupees fifty thousand only) with one surety in the like amount to the satisfaction of learned Chief Judicial Magistrate, Mandi. The bail is granted subject to the following conditions:

i. That the petitioner will join investigation of the case as and appear when called for by the Investigating Officer in accordance with law.

ii. That the petitioner will not leave India without prior permission of the Court.

iii. That the petitioner 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 such facts to the Investigating Officer or Court.

7. Accordingly, the petition is disposed of.