

**(2022) 06 SHI CK 0055**

**In the High Court Of Himachal Pradesh**

**Case No :** Criminal Miscellaneous Petition (Main) No. 576 Of 2022

Mehar Singh

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

**Date of Decision :** 21-06-2022

**Acts Referred:**

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8, 20, 29, 37

Code Of Criminal Procedure, 1973 — Section 439

Himachal Pradesh Tenancy And Land Reforms Act, 1972 — Section 118

**Citation :** (2022) 06 SHI CK 0055

**Hon'ble Judges :** Satyen Vaidya, J

**Bench :** Single Bench

**Advocate :** Maan Singh, Ashwani Pathak, Tamanna

**Final Decision :** Dismissed

## Judgement

Satyen Vaidya, J

1. Petitioner is accused in case FIR No. 41 dated 13.6.2021 registered at Police Station, Narcotics Control Bureau, Sub Zone, Mandi, District Mandi, H.P. under Sections 8, 20 and 29 of the Narcotics Drugs and Psychotropic Act. The petitioner was arrested on 8th February, 2022.

2. The brief facts of the case are that officials of Narcotics Control Bureau (for short 'NCB'), Sub Zone, Mandi had laid a 'Nakka' at place Pul Gharat near Mandi town on a secret information. Simranjeet Singh and Amanpreet Singh were apprehended with motorcycle No. PB-13-AD2700. Whereas Simranjeet Singh was the rider, Amanpreet Singh was on the pillion. 526 grams of charas was recovered from the bag carried by Ms. Amanpreet Singh and 780 grams of charas was recovered from the bag carried by Simranjeet Singh. Both were found to be husband and wife. The case was formally registered and both the above noted persons were arrested.

3. During investigation, the Investigating Officer found that Simranjeet Singh had

purchased charas from the petitioner against consideration. Efforts were made to trace the petitioner, but he could not be found until he filed an application for grant of pre-arrest bail before this Court in the month of December, 2021. During interim bail, petitioner joined investigation. The application for pre-arrest bail was finally rejected by this Court on 14.12.2021.

4. As per case of respondent, the complicity of petitioner in the crime has been found. Frequent phone calls between the petitioner and Simranjeet Singh have been traced during relevant period. Additionally, money transaction has also taken place between them.

5. On the other hand, petitioner has made a prayer for grant of bail under Section 439 Cr.P.C on the ground that he is innocent and the respondent is not possessed of any legal evidence to connect petitioner with the alleged crime. It is further contended that the petitioner has no past criminal history. He is permanent resident of Village Shangna, Post office Mani Karan, Tehsil Bhuntar, District Kullu, Himachal Pradesh and there is no likelihood of his fleeing from the course of justice. Petitioner is ready and willing to abide by all the conditions as may be imposed. Section 37 will not be applicable in so far as the allegations against the petitioner are concerned. Learned counsel for the petitioner has further pointed out that NCB has already filed a complaint against Simranjeet Singh and Amanpreet Singh alleging inter-alia that Simranjeet Singh had purchased 800 grams of charas from the petitioner, which was intermediate quantity.

6. I have heard learned counsel for the petitioner and Sh. Ashwani Pathak, learned Senior Advocate assisted by Ms. Tamanna, Advocate for the respondent-NCB and have also gone through the record carefully.

7. This Court, while deciding bail application will not minutely scan the material collected during investigation, still a cursory look at such material would be necessary only for the purposes of assessing seriousness and gravity of charges against the petitioner.

8. A sum of Rs.10,000/- has been found to be transferred from the account of Simranjeet Singh to the bank account of petitioner on 28.05.2021 i.e. about 15 days before the apprehension of Simranjeet Singh with the contraband. The explanation rendered on behalf of the petitioner for such money transaction does not appear to be genuine and plausible. Learned counsel for the petitioner has argued that co-accused Simranjeet Singh was negotiating some deal with the petitioner regarding taking of land on lease, but he has failed to place on record any tangible material to prove such fact. He relied upon the fact that exchange of telephone calls between Simranjeet Singh and petitioner was since long time and this fact should be taken in support of his contention. However, this again cannot be considered as corroborative to the plea raised on behalf of the petitioner. The plea raised appears to be an afterthought. Simranjeet Singh, in order to have lease of land in Himachal Pradesh, needed to qualify the test of Section 118 of

H.P. Tenancy and Land Reforms Act. The bare minimum would be execution of an agreement to lease.

9. The fact that petitioner has tried to raise a false plea coupled with his conduct that he could not be found by the NCB for considerable long period casts a serious doubt on the bonafides of petitioner. Merely because the complaint filed against Simranjeet Singh and Amanpreet Singh makes a mention of purchase of 800 grams charas from petitioner, will not be sufficient for petitioner to claim liberty of bail in the instant case. Even assumingly he had sold 800 grams of charas, the said quantity cannot be termed to be less by any stretch of imagination. The evident nature of commercial transaction and deal into the contraband aggravates the situation for the petitioner. In cases, where Section 37 of the NDPS Act is not applicable, the bail cannot be claimed as a matter of right. The fate depends on the facts of each and every case.

10. The menace of drug addiction especially in the adolescents and students has seriously eroded into the fabric of the society, putting the future generation as also the prospects of future nation building into serious peril.

11. It is not a case where the investigating agency has not been able to lay its hand on any legal evidence against the petitioner. Though allegations against the petitioner are yet to be proved in accordance with law, it cannot be singally taken as a factor to grant bail to the petitioner. Nothing has been placed on record as to how and in what manner petitioner came in contact with the persons who were not the residents of the State. Thus, there is prima-facie material to infer implication of the petitioner in the crime and in such circumstances, the release of petitioner on bail will send a negative signal in the society, which definitely shall be detrimental to its interest.

12. Even 800 grams of charas allegedly sold by the petitioner cannot be said to be a lesser quantity. The prima-facie involvement of petitioner in the dangerous trade of contraband cannot be ignored merely on account of the fact that he has no past criminal history. It cannot be guaranteed that there will be no re-indulgence by the petitioner, in case released on bail. Keeping in view the fact that petitioner absconded for considerable period after registration of case, it cannot be ruled-out that he may again flee from the course of justice and try to tamper with the prosecution evidence.

13. The petitioner has placed reliance on orders passed by this Court in Cr.M.P(M) No. 2444 of 2021, Cr.M.P(M) No. 675 of 2022 and also Cr.M.P(M) No. 218 of 2021 to contend that the persons in identical situations have been granted bail. The contention raised on behalf of the petitioner is liable to be rejected for the reason that orders passed in the above noted cases were keeping in view the respective fact situations of individual case, which were not identical to the facts of the present case.

14. The petitioner, in the given facts and circumstances of the case, is not entitled to grant of bail. The petition is accordingly dismissed.

15. Any observation made hereinabove 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 hereinabove.