
(2020) 06 SHI CK 0190

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No. 700 Of 2020

Neelam

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 25-06-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 61, 85

Citation : (2020) 06 SHI CK 0190

Hon'ble Judges : Vivek Singh Thakur, J

Bench : Single Bench

Advocate : Anjali Soni Verma, Shiv Pal Manhans, Raju Ram Rahi, Gaurav Sharma

Final Decision : Disposed Of

Judgement

Vivek Singh Thakur, J

1. Present petition has been preferred under Section 439 Cr.P.C. seeking regular bail in case FIR No. 29 of 2020, dated 14.2.2020, registered under Sections 61-85 of Narcotics Drugs and Psychotropic Substances Act in Police Station Palampur, District Kangra, H.P.

2. Status report stands filed.

3. Petitioner was arrested on 15.2.2020 and since then after remaining in Police custody, she is in judicial custody.

4. As per status report, on the basis of secret information received from informer that one Neelam i.e. petitioner, who is maternal Aunt of wife of co-accused Sagar, had come to the house of Sagar to deliver drugs. Finding the information reliable, after constituting a raiding party, house of co-accused Sagar was raided and below double-bed, whereupon these two persons i.e. Neelam and Sagar were sitting, one carry bag was found, wherein 23 transparent polythene pouches were found. These pouches were containing 1150 blue colored capsules.

On checking, these capsules were SPM-PRXWOCK HARDT.

5. According to status report, Sagar and Neelam had disclosed that these are psychotropic substance. These capsules were seized in accordance with law and sent for State Forensic Laboratory for chemical analysis. It is also submitted by learned Deputy Advocate General and also evident from the status report that accused Sagar was arrested on 14.2.2020, whereas Neelam, petitioner herein, was arrested on 15.2.2020 at 9:45 A.M.

6. According to report received from State Forensic Laboratory, capsules recovered were found to be of SPM-PRX+WOCKHARDT and total weight of the capsule was found to be 694 grams, which is intermediate quantity.

7. It is also stated in the status report that on the basis of CDR, connection between Neelam and Sagar stands established, but CDR reports thereof are yet to be taken. Challan has been prepared and presented in the Court on 16.4.2020, which is pending consideration.

8. Learned Deputy Advocate General submits that bail application of co-accused Sagar was also preferred, but the same was dismissed as withdrawn.

9. As per prosecution case, the contraband was recovered from the house of Sagar, who was arrested on the same date. It is also case of the prosecution that present petitioner was present in the house of Sagar on that date and Police had information that she had come to supply capsules to Sagar. However, it is not clear from status report that why she was not arrested on 14.2.2020, but arrested on 15.2.2020. Learned Deputy Advocate General also submits that co-accused Sagar who is relative of petitioner had been found to be involved in similar cases of supply of narcotic drugs and, therefore, present petitioner, who is supplier of drugs and relative of co-accused Sagar, is also not entitled for bail.

10. Even if the case of the prosecution is considered to be true and correct, it is evident that petitioner is first offender and is 45 years old lady and allegation is that she has supplied drugs to the main accused from Pathankot. From the address of the petitioner mentioned in the petition and address of co-accused Sagar mentioned in the status report, it is apparent that both are residents of one and the same village, whereas case of the prosecution is that a secret information was received that petitioner had come from Pathankot to supply capsules to main accused Sagar at his house in Bindraban (Palampur).

11. Petitioner is lady and is different class and thus her case can be considered differently to the case of co-accused Sagar as there is material available on record to treat her case differently from the case of co-accused Sagar.

12. Considering the entire facts and circumstances of the case, I am of the opinion that no fruitful purpose is going to be served by keeping the petitioner behind the bars at this stage.

13. In view of above, petitioner is ordered to be released on bail in case FIR No.

29 of 2020, dated 14.2.2020, registered under Sections 61-85 of Narcotics Drugs and Psychotropic Substances Act in Police Station Palampur, District Kangra, H.P., on her furnishing personal bond in the sum of `50,000/- with one surety in the like amount, to the satisfaction of trial Court, within two weeks from today, subject to following conditions:-

- (i) That the petitioner shall make herself available to the police or any other Investigating Agency or Court in the present case as and when required;
- (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/her from disclosing such facts to Court or to any police officer or tamper with the evidence. He shall not, in any manner, try to overawe or influence or intimidate the prosecution witnesses;
- (iii) that she shall not obstruct the smooth progress of the investigation/trial;
- (iv) that the petitioner shall not commit the offence similar to the offence to which they are accused or suspected;
- (v) that the petitioner shall not misuse their liberty in any manner;
- (vi) that the petitioner shall not jump over the bail;
- (vii) that she shall keep on informing about the change in address, landline number and/or mobile number, if any, for their availability to Police and/or during trial;
- (viii) She shall not leave India without permission of the Court.

14. It will be open to the prosecution to apply for imposing and/or to the trial Court to impose any other condition on the petitioners as deemed necessary in the facts and circumstances of the case and in the interest of justice.

15. In case the petitioner violate any conditions imposed upon them, her bail shall be liable to be cancelled. In such eventuality, prosecution may approach the competent Court of law for cancellation of bail, in accordance with law.

16. Learned trial Court is directed to comply with the directions issued by the High Court, vide communication No.HHC.VIG./Misc. Instructions/93-IV.7139 dated 18.03.2013.

17. Observations made in this petition hereinbefore shall not affect the merits of the case in any manner and are strictly confined for the disposal of the bail application.

18. The petitioner is permitted to produce copy of order downloaded from the High Court website and the trial Court shall not insist for certified copy of the order, however, he may verify the order from the High Court website or otherwise.

19. The petition stand disposed of in the aforesaid terms.