

(2020) 09 SHI CK 0124

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (M) No. 1263 Of 2020

Ramesh Chand Alias Maheshu Mam

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 09-09-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439
Narcotics Drugs And Psychotropic Substances Act, 1985 — Section 20, 29
Indian Penal Code, 1860 — Section 201

Citation : (2020) 09 SHI CK 0124

Hon'ble Judges : Chander Bhusan Barowalia, J

Bench : Single Bench

Advocate : Yashveer Singh Rathore, S.C. Sharma, P.K. Bhatti

Final Decision : Disposed Of

Judgement

Chander Bhusan Barowalia, J

1. The present bail application has been maintained by the petitioner, under Section 439 of the Code of Criminal Procedure seeking his release in case FIR No.239 of 2019, dated 26.10.2019, under Sections 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act and Section 201 of the Indian Penal Code, registered in Police Station, Bhuntar, District Kullu, H.P.

2. As per the averments made in the petition, the petitioner is innocent and has been falsely implicated in the present case. He is permanent resident of the place and neither in a position to tamper with the prosecution evidence nor in a position to flee from justice. No fruitful purpose will be served by keeping him behind the bars for an unlimited period, so he be released on bail.

3. Police report stands filed. As per the prosecution story, on 25.10.2019, policy party present at TCP Bajora, stopped a VOLVO bus bearing No.HP-66A-2204, for checking. Since occupant of Seat No.18, namely, Tahal Singh, got perplexed after having seen the police, police conducted his search in the presence of

independent witnesses and recovered 1.2 Kg of charas. During the course of investigation, Tahal Singh, informed the police that he purchased the contraband in question from person, namely, Ramesh Chand, (petitioner herein) for a total consideration of Rs.80,000/-. Above named person, Tahal Singh, also disclosed to the police that contraband allegedly recovered from him was to be sold to one Ghardeep Singh alias Gary Bhai, resident of Ropar, Punjab. On the basis of aforesaid information disclosed by Tahal Singh, police carried out further investigation and found that some money was transferred in the Bank Account of Ghardeep Singh alias Gary Bhai. Case of the Investigating Agency against the petitioner is that contraband allegedly recovered from the conscious possession of Tahal Singh, was to be sold to Ghardeep Singh alias Gary Bhai, who in turn had deposited some amount in the Bank Account of Giridhar. During the course of investigation, police found that sum of Rs.25,450/-, was sent by Ghardeep Singh alias Gary Bhai, to Bank Account of Giridhar, on various dates. Thereafter, the police completed all the codal formalities. Police made the relevant recoveries, prepared the spot map and recorded the statements of the witnesses. Lastly, it is prayed that the bail application of the petitioner be dismissed, as the petitioner was involved in a serious offence, he is dealing in narcotics and there is every possibility that in case at this stage he is enlarged on bail, he may flee from justice and tamper with the prosecution witnesses.

4. I have heard the learned counsel for the petitioner, learned Additional Advocate General for the State and gone through the record, including the police report, carefully.

5. Mr. Yashveer Singh Rathore, learned counsel for the petitioner has vehemently argued that the petitioner is not at all connected in the present offence. He has argued that as per the investigation carried out by the police, there is no transaction in any manner, in any of the Bank Account, or otherwise, which shows that the petitioner was involved in the said transaction. He has further argued that the petitioner is totally innocent and he cannot kept behind the bars, when two co-accused persons have already released on bail except the main accused, and in these circumstances, as it is the only main accused, namely, Tehal Singh, who has himself stated that he has sown crop and made the charas and going to sell at Chandigarh, and the present petitioner cannot be associated in the alleged offence. He has further argued that the petitioner is permanent resident of the place and neither in a position to tamper with the prosecution evidence nor in a position to flee from justice. He has argued that no fruitful purpose will be served by keeping the petitioner behind the bars for an unlimited period.

6. On the other hand, learned Additional Advocate General has argued that the petitioner has committed a serious crime and in case, he is enlarged on bail, he may tamper with the prosecution evidence and may also flee from justice, so it is prayed that the bail application of the petitioner may be dismissed.

7. Heard. At this stage, this Court finds that the charas was not recovered from

the petitioner and no financial transactions are found to be made by him, prima facie, seems not involved in the present case, and also considering the fact that the petitioner is behind the bars for the last more than eleven months and he cannot be kept behind the bars for an unlimited period, investigation in the matter is completed, nothing remains to be recovered at the instance of the petitioner, challan has also been presented before the learned Trial Court, custody of the petitioner is not at all required by the police, considering the quantity of the recovered contraband, the fact that the petitioner is ready and willing to abide by the terms and conditions of bail, in case granted, he is neither in a position to flee from justice, this Court finds that the present is a fit case, where the judicial discretion to admit the petitioner on bail is required to be exercised in favour of the petitioner. Under these circumstances, it is ordered that the petitioner be released on bail, in this case FIR No. 239 of 2019, dated 26.10.2019, under Sections 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act and Section 201 of the Indian Penal Code, registered in Police Station, Bhuntar, District Kullu, on his furnishing personal bond to the tune of Rs.50,000/- (rupees fifty thousand only) with one surety in the like amount to the satisfaction of the learned Trial Court. The bail is granted subject to the following conditions:

- i. That the petitioner will join investigation of case as and 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.

8. In view of the above, the petition is disposed of.

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