

(2021) 11 SHI CK 0011

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 1933 Of 2021

Raneet Kumar Chauhan Alias Rinni

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 08-11-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 21

Citation : (2021) 11 SHI CK 0011

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Karan Singh Kanwar, Adarsh Sharma, Sumesh Raj, Sanjeev Sood, Kamal Kant Chandel

Final Decision : Disposed Of

Judgement

Ajay Mohan Goel, J

1. ASI Manohar Singh, IO Police Station Dharampur, District Solan, is present with case record.

2. By way of this petition filed under Section 439 of the Code of Criminal Procedure, the petitioner has prayed for grant of regular bail in FIR No. 72 of 2021, dated 08.08.2021, registered at Police Station Dharampur, District Solan, H.P. under Section 21 of the Narcotic Drugs and Psychotropic Substances Act 1985 (hereinafter to be referred as the 'NDPS Act' for short).

3. The allegation against the petitioner is that on 08.08.2021, on the basis of a secret information, Truck bearing registration No. HP-63D-2425, being driven by the petitioner, coming from Parwanoo towards Dharampur side, was signaled to stop by the police party. Though, personal search of the accused/ petitioner resulted in no recovery, however, from left dashboard of the Truck, grey coloured substance, which on smelling, was found to be Heroin, weighing 17.31 grams. On the basis of this recovery, the petitioner was apprehended and proceedings stood

initiated against him under the provisions of ND&PS Act. The petitioner is stated to be in custody since 08.08.2021.

4. Mr. Karan Singh Kanwar, learned Counsel for the petitioner, has argued that the petitioner is innocent and he has been falsely implicated in the case. He has further argued that, as of now, the investigation is complete, challan has been filed before the appropriate Court and no recovery etc. remains to be effected at the instance of the petitioner, therefore, no purpose will be served by keeping the petitioner in custody, as the alleged recovery of Heroin is only of intermediate quantity, and further the petitioner, if released on bail, shall comply with all the conditions which may be imposed upon him.

5. Opposing the bail petition, learned Deputy Advocate General has argued that keeping in view the fact that the petitioner has been booked under the provisions of the ND&PS Act, there is each and every possibility that in case the petitioner is ordered to be released on bail, he may try to influence and win over the witnesses, and thus, can create hurdles in the smooth trial of the case. Accordingly, a prayer has been made for dismissal of the petition.

6. I have heard learned Counsel for the petitioner as well as learned Deputy Advocate General and also gone through the averments made in the bail petition as well as the status report.

7. Record demonstrates that the petitioner has earlier also approached the Court of learned Special Judge (3), Solan, by way of bail application No. 55ASJ-II/22 of 2021, titled as Raneet Kumar Chauhan vs. The State of Himachal Pradesh, for his release on bail, under Section 439 of the Code of Criminal Procedure, which bail application stood dismissed by the learned Court below on the ground that the investigation was not yet complete and in terms of the police file and status report of police, they were trying to locate the Auto Driver by obtaining call details report, Whatsapp and facebook messenger, from whom the Heroin was allegedly purchased by the petitioner. This Court is of the considered view that as the investigation is complete and the challan already stands filed by the police before the appropriate Court of law, no purpose is going to be served by detaining the petitioner in custody, from whom, intermediate quantity of Heroin, weighing 17.21 grams, was allegedly recovered. As far as apprehensions expressed by learned Deputy Advocate General are concerned, the same can be taken care of by imposing stringent conditions upon the petitioner, while releasing him on bail, with further liberty reserved to the State to move appropriate application for recalling the bail granted to the petitioner, in case, the petitioner violates any of the said conditions. Therefore, as the investigation in the case is complete and challan stands filed in the Court of law, this petition is allowed by ordering the release of the petitioner in FIR No. 72 of 2021, dated 08.08.2021, registered at Police Station Dharampur, District Solan, H.P. under Section 21 of the NDPS Act, on his furnishing personal bail bond to the tune of Rs. 50,000/-with one surety in the like amount to the satisfaction of the learned trial Court, within a period of two weeks from today, subject to the following

conditions:-

? Petitioner shall attend the trial Court on each and every date of hearing and if prevented by any reason to do so, seek exemption from appearance by filing appropriate application;

? He shall not tamper with the prosecution evidence nor hamper the investigation of the case in any manner whatsoever.

? He shall not 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 Court or the Police Officer; and

? He shall not leave the territory of this Country.

8. It is clarified that findings which have been returned by this Court while deciding this petition are only for the purpose of adjudication of the present bail petition and learned trial Court shall not be influenced in any manner whatsoever by any of the findings so returned by this Court in the adjudication of this petition during the course of the trial of the case. It is further clarified that in case the petitioner does not comply with any of the conditions, which have been imposed upon him while granting the present bail, the State shall be at liberty to approach this Court for the cancellation of the bail. The petition stands disposed of in the above terms.

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