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**(2020) 09 SHI CK 0301**  
**In the High Court Of Himachal Pradesh**  
**Case No : CR.MMO No.222, 223 Of 2020**

Sery Hubert John And Others

APPELLANT

Vs

State Of H.P

RESPONDENT

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**Date of Decision :** 16-09-2020

**Acts Referred:**

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 21, 25, 29  
Foreigners Act, 1946 — Section 14

**Citation :** (2020) 09 SHI CK 0301

**Hon'ble Judges :** Vivek Singh Thakur, J

**Bench :** Single Bench

**Advocate :** Pushpinder Jaswal, Shiv Pal Manhans

**Final Decision :** Allowed

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## Judgement

Vivek Singh Thakur, J

1. These two petitions, to be adjudicated on the same material to deal with identical questions of fact and law, are being decided by this common judgment.
2. Petitioners herein, are accused in case FIR No.151 of 2019 dated 08.12.2019, registered under Sections 21, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act') and Section 14 of the Foreigners Act, 1946, in Police Station Patlikuhal, District Kullu, H.P.
3. It is undisputed fact that there are five accused in total and three out of them are local residents, whereas, present petitioners are Foreign Nationals. Petitioner-Sery Hubert John is a citizen of Republic De Cote D'Ivoire and Petitioner-Uzor Chimezie Samuel is a Nigerian National. Both of them have been arrested under Section 29 of NDPS Act during investigation after revelation by accused Rajat that contraband recovered from three accused was purchased from present petitioners at Dwarka in Delhi.
4. At initial stage, Section 14 of the Foreigners Act, was also added, however, on

verification, it has been found that present petitioners are residing in India with valid documents and, therefore, Section 14 of the Foreigners Act has been omitted from the Charge-sheet filed in the Court.

5. It is admitted case that all the accused, including present petitioners, have been ordered to be enlarged on bail by learned Special Judge Kullu. Three accused, namely, Archit, Rajat and Charanjit Singh, stand released on bail after furnishing surety bonds by and on behalf of them, whereas, present petitioners could not furnish requisite surety bonds, as according to them, learned Special Judge has imposed condition of furnishing two solvent sureties each in a sum of Rs. 2,00,000/-each to the satisfaction of learned Chief Judicial Magistrate Kullu, alongwith personal bonds of each petitioner in the like amount.

6. Petitioners have approached this Court for modifying the condition imposed by the Special Judge on the ground that condition for furnishing two solvent sureties each in the sum of Rs. 2,00,000/- is highly excessive and such condition in fact, rendering the order passed by the Special Judge enlarging the petitioners on bail infructuous and this condition has frustrated the order of trial Court.

7. According to prosecution case, 46 grams of Heroin was recovered from accused Archit, Rajat and Charanjit Singh, which is alleged to have been purchased from present petitioners. The quantity of recovered contraband is intermediate for which maximum sentence is rigorous imprisonment for a term which may extend to ten years with fine which may extend to Rs. 1,00,000/-.

8. The issue relating to bond amount in similar case has also been decided by a Single of this High Court in Ram Lal alias Ram Avtar vs. State of H.P., reported in 2013(3) Shim.LC 1251.

9. Considering entire facts and circumstances of the case and also the fact that Passports of present petitioners have also taken into possession by Investigating Agency and also keeping in view the ratio of judgment in Ram Lal alias Ram Avtar's case referred supra, amount of surety bonds to be furnished by two sureties, is reduced to Rs. 1,00,000/- and, therefore, on furnishing personal bonds in the sum of Rs. 2,00,000/-each and two solvent sureties in the sum of Rs. 1,00,000/- each to the satisfaction of learned Chief Judicial Magistrate and in his absence learned Judicial Magistrate Kullu, petitioners shall be enlarged on bail in present case, in terms of order dated 12.06.2020, passed by learned Special Judge-II Kullu, District Kullu, H.P., in Bail Application Nos.112 of 2020, titled as Sery Hubert John vs. The State of Himachal Pradesh; and 113 of 2020, titled as Uzor Chimezie Samuel vs. The State of Himachal Pradesh, respectively.

10. It is again made clear that other conditions imposed by the said Court shall remain as such.

11. Petitions are allowed in aforesaid terms.

Registry to transmit a copy of this order to the trial Court through E-mail.

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