

(2020) 09 SHI CK 0210
In the High Court Of Himachal Pradesh
Case No : CRMPM No. 1305 Of 2020

Shanti

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 14-09-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

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

Citation : (2020) 09 SHI CK 0210

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Sanjeev Bhushan, Maan Singh, Somesh Raj, Dinesh Thakur, Sanjeev Sood

Final Decision : Disposed Of

Judgement

Ajay Mohan Goel, J

1. By way of this petition filed under Section 439 of the Code of Criminal Procedure Code (hereinafter referred to 'Cr.P.C.' for short), the petitioner has prayed for grant of regular bail in FIR No. 55 of 2020, dated 17.02.2020, registered at Police Station Bhuntar, District Kullu, HP, under Sections 20 and 29 of the Narcotic Drugs and Psychotropic Substances, Act (hereinafter referred to 'ND&PS Act' for short).

2. Without going into the factual matrix involved in the present case at length, Mr. Sanjeev Bhushan, learned Senior Counsel appearing for the petitioner, at the very outset, submits that the petitioner is in custody since 19th February, 2020. She is the mother of a small child, who is aged about two years and the child is also with her since the date she was taken in custody. Learned Senior Counsel further submits that keeping in view these peculiar facts of the case, the petitioner may be ordered to be released on bail on such conditions as this Court deems fit and proper so that she is in a better position to look after her small child. On instructions, he informs the Court that the petitioner undertakes not to

leave the territory of State of Himachal Pradesh without the permission of the Court.

3. Learned Additional Advocate General, on the other hand, has opposed the bail petition of the petitioner inter alia on the ground that keeping in view the fact that the recovery in the FIR, in which, the petitioner stood apprehended, is more than 8 kilograms, it is not a fit case for release of the petitioner on bail, as the same, according to him, may have adverse effect on the trial of the case. He further submits that as other co-accused are behind bar, release of present petitioner shall also give them a right to approach the Court for grant of bail on the ground that co-accused stands released.

4. Having heard learned Senior Counsel appearing for the petitioner as well as learned Additional Advocate General and having gone through the documents appended with the petition as well as the status report etc., in my considered view, this petition deserves to be allowed by ordering the release of the petitioner on bail on the simple ground that the small child of the petitioner, who is aged about two years, is alongwith with her in custody. The petitioner is not being released on bail because prima facie the Court does not finds her involvement in the alleged offences but is being released on bail purely on humanitarian grounds in view of the age of the small child. The statement of learned Senior Counsel so made on behalf of the petitioner that she will not leave the territory of the State of Himachal Pradesh without the leave of the Court, is taken on record. It is clarified that in the event of other co-accused approaching the appropriate Court of law for release of bail, the order which is being passed by this Court today in this petition, shall not be quoted and treated as a precedent because as already mentioned above, this order is being passed in the interest of the infant child of the petitioner.

5. This petition is allowed and the petitioner is ordered to be released on bail on her furnishing personal bail bond to the tune of Rs.1,00,000/- with one surety in the like amount to the satisfaction of learned Trial Court within a period of two weeks from today, subject to the following conditions:-

- i) 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;
- ii) She shall not tamper with the prosecution evidence in any manner whatsoever.
- iii) She 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
- iv) She shall not leave the territory of State of Himachal Pradesh without prior permission of the Court as undertaken by her Counsel on instructions.

6. It is clarified that the observations which have been made by this Court in the disposal of this bail petition, shall have no bearing in case other co-accused apply

for grant of bail. It is further 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 application and learned trial Court shall not be influenced by any of the findings so returned by this Court in the adjudication of this petition during the trial of the case. It is also clarified that in case the petitioner does not complies with the conditions which have been imposed upon her while granting the 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.

Copy dasti.