

(2020) 10 MP CK 0094

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 37672 Of 2020

Shivrajsingh

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision : 06-10-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 37, 42

Citation : (2020) 10 MP CK 0094

Hon'ble Judges : Virender Singh, J

Bench : Single Bench

Advocate : N.Dave, Amit Rawal

Final Decision : Dismissed

Judgement

Virender Singh, J

Crime No.

Under Section

Police Station

375/2020

8/15 of NDPS Act

Sitamau District Mandsaur

1. As declared by the petitioner, this is the first bail application under Section 439 of Cr.P.C.

2. It is argued by the learned counsel for the petitioner that the non-commercial quantity of 40 Kg of poppy straw has been allegedly recovered from the possession of the petitioner. The bar created under Section 37 of the NDPS Act does not come into play in the present case. The petitioner has no criminal

record. He is in custody since 24.7.2020. He is not concerned with the crime. He has been falsely implicated in the case. Nothing has to be recovered from his possession. His custodial interrogation is not required. He is ready to cooperate with the investigation and to furnish adequate security and shall abide by the conditions to be imposed by the Court. He is a permanent resident of District Mandsaur and there is no possibility of his absconding. The trial is likely to take time. Therefore, it is prayed that he be granted anticipatory bail.

3. It is further submitted that discrepancies appeared in the documents prepared at the pre and post recovery makes the prosecution case doubtful. The learned counsel for the petitioner drew the attention of this Court towards the manner of compliance of Section 42 of the NDPS Act. It is stated that against the mandate of the concerned provision, the compliance has been done by the Constable and this is not permitted in the law. On these grounds also, the petitioner is entitled to bail.

4. The learned panel lawyer has opposed the bail.

5. According to the prosecution, after receiving information the police surrounded the petitioner at Morkhedha Phanta Sitamaou Mandsaur Road. He was carrying 40 Kg poppy straw without any license, permit, or any other valid document in his loading Bolero Jeep bearing registration No. MP14GC1947, therefore, the present case is registered against him.

6. Learned counsel for the petitioner referred several documents prepared during the investigation at the stage of pre and post recovery and argued that there are discrepancies in the document which makes the prosecution case doubtful.

7. The action taken by the police since receiving the information about illegal trafficking of contraband can be demonstrated by the following table:-

अपराध क्रमांक, 375/2020 धारा-8 /15, 29 एनडीपीएस एक्ट नाम आरोपी शिवराज सिंह पिता रघुबीर सिंह उम्र 30 वर्ष निवासी साखतली थाना सीतामऊ।

क्रमांक

कार्यवाही का विवरण

दिनांक

समय

1.

प्राप्त मुखबिर की सूचना

24/07/2020

18-12 बजे

2.

तलब पंचान

24/07/2020

18-20 बजे

3.

मुखबीर सूचना का पंचनामा

24/07/2020

18-30 बजे

4.

मुखबीर सूचना का पंचनामा की रिपोर्ट दर्ज

24/07/2020

18-40 बजे

5.

सर्च वारन्ट प्राप्त न कर सकने का पंचनामा

24/07/2020

18-45 बजे

6.

सर्च वारन्ट प्राप्त न कर सकने का पंचनामा की रिपोर्ट

24/07/2020

18-50 बजे

7.

रवाना आर. एसडीओपी कार्यालय मुखबीर की सूचना व सर्च वारन्ट प्राप्त न कर सकने की सूचना देने

24/07/2020

19-00 बजे

8.

रवाना फोर्स मुखबीर सूचना की तस्दीक व कार्य वाही हेतु

24/07/2020

19-10 बजे

9.

पूछने नाम पता व कराने अवगत मुखबीर की सूचना से

24/07/2020

19-40 बजे

10.

सूचना पत्र अन्तर्गत धारा 50 एनडीपीएस एक्ट अन्तर्गत

24/07/2020

19-50 बजे

11.

पंचनामा सहमति

24/07/2020

20-00 बजे

12.

पंचनामा लिखित सहमति

24/07/2020

20-10 बजे

13.

पंचनामा जामा तलासी फोर्स व पंचानों की सन्दर्ही

24/07/2020

20-20 बजे

14. प

पंचनामा तलासी व्यक्ति की तथा वाहन की

24/07/2020

20-30 बजे

15.

पंचनामा मादक प्रदार्थ पहचान का

24/07/2020

20-40 बजे

16.

पंचनामा तौल व सत्यापन का

24/07/2020

20-50 बजे

17.

पंचनामा करने समरस मादक पदार्थ

24/07/2020

21-00 बजे

18.

पंचनामा निकलने सेम्पल करने सीलबन्द

24/07/2020

21-30 बजे

19.

पंचनामा नमुना सील

24/07/2020

21-40 बजे

20.

पंचनामा जप्ती

24/07/2020

21-50 बजे

21.

पंचनामा कराने गिरफ्तारी के कारण से अवगत

24/07/2020

22-00 बजे

22.

गिरफ्तारी पंचनामा

24/07/2020

22-10 बजे

23.

वापसी थाना पर

24/07/2020

22-52 बजे

24.

कायमी अप क्र 375/2020 धारा 8/15 एनडीपीएस एक्ट

24/07/2020

23-11 बजे

25.

माल पुनः थाने पर सीलबन्द करने का

24/07/2020

23-15 बजे

8. After going through the documents prepared during the inquiry or investigation and the other evidence collected during the investigation, I am not inclined to allow the bail to the petitioner, therefore, the petition is dismissed.