

(2022) 06 SHI CK 0001

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 1121 Of 2022

Trilok Singh

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 01-06-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 18A

Citation : (2022) 06 SHI CK 0001

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Raman Parashar, Surender Sharma, Desh Raj Thakur, Arvind Sharma, Narender Singh Thakur

Final Decision : Disposed Of

Judgement

Jyotsna Rewal Dua, J

1. The present petition under Section 438 of the Code of Criminal Procedure is in relation to FIR No. 134/2022, dated 23.4.2022, registered under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short the 'NDPS Act'), at Police Station, Sadar, District Chamba, H.P.

2. Prosecution case is that on 23.4.2022 a police party that was on routine patrolling duty within the area of its jurisdiction received a secret information at 2.15 p.m. of cultivation of opium plants by Smt. Phiki Devi wife of late Sh. Chatro in her fields. The information was also to the effect that raid of the fields owned by Smt. Phiki Devi could result in recovery of large number of opium plants. The information was reliable, therefore, provisions of the NDPS Act were complied with. In presence of the Pradhan of the concerned Gram Panchayat and other residents of the area, the raiding party reached the spot and saw opium plants standing over the field adjoining to the home of Smt. Phiki Devi. During investigations, Smt. Phiki Devi disclosed that though she owned the land and the field in question but the same was being cultivated by her son-in-law Trilok Singh

(bail petitioner). Total 324 opium plants were found cultivated in the field belonging to Smt. Phiki Devi. This led to the registration of the FIR in question.

During further investigation carried out by the police, it came out that Smt. Phiki Devi aged around 75 years, had seven daughters who were all married. The youngest daughter was married to the bail petitioner and resided in the adjoining village Tarala. Her husband i.e. Smt. Phiki Devi's son-in-law (bail petitioner) was running a dhaba in Smt. Phiki Devi's village and also used to look after her land.

3. Ad-interim protection was granted to the petitioner vide order dated 23.5.2022.

4. The status report records that the petitioner has joined the investigation in terms of the ad-interim order and has been co-operating with the investigating agency.

Learned Additional Advocate General, on the basis of instructions, submitted that the custodial interrogation of the petitioner is not required by the investigating agency at this stage, however, petitioner be directed to join the investigation and to co-operate with the investigating agency as and when it directs him to do so.

5. Present is a case where the investigating agency has statedly recovered 324 opium plants from the agricultural field. The land in question does not belong to the petitioner. The owner of the land is a lady aged around 75 years. During investigation she has statedly disclosed that her land is being looked after by the petitioner.

In view of the investigation carried out by the investigating agency thus far and the fact that the petitioner has cooperated with the investigating agency, the custodial interrogation of the petitioner is not warranted. Even the investigating agency does not require the custodial interrogation of the petitioner at this stage. Status report does not indicate any criminal record of the petitioner. Petitioner is local resident and his presence can be ensured during trial. Accordingly, the bail petition is allowed and the ad-interim protection granted to the petitioner vide order dated 23.5.2022 is made absolute subject to following conditions:-

(i) Petitioner is directed to join the investigation of the case as and when called for by the Investigating Officer in accordance with law. He shall fully cooperate the Investigating Officer and will appear before him in the concerned police station as and when called in accordance with law;

(ii) Petitioner shall not tamper with the evidence or hamper the investigation in any manner whatsoever;

(iii) Petitioner will not leave India without prior permission of the Court.

(iv) Petitioner shall not make any inducement, threat or promise, directly or indirectly, to the investigating officer or any person acquainted with the facts of the case to dissuade him/her from disclosing such facts to the Court or any Police Officer;

(v) In case of launching of prosecution, petitioner shall attend the trial on every hearing, unless exempted in accordance with law.

(vi) Petitioner shall inform the Station House Officer of the concerned police station about his place of residence during bail and trial. Any change in the same shall also be communicated within two weeks thereafter. Petitioner shall furnish details of his Aadhar Card, Telephone Number, E-mail, PAN Card, Bank Account Number, if any.

(vii) It is made clear that in case the petitioner is arraigned as an accused in future, in any FIR, more particularly under the NDPS Act, then this bail is liable to be cancelled. It is open for the Investigating Agency to move appropriate application in that regard.

In case of violation of any of the terms & conditions of the bail, respondent-State shall be at liberty to move appropriate application for cancellation of the bail. It is made clear that observations made above are only for the purpose of adjudication of instant bail petition and shall not be construed as an opinion on the merits of the matter. Learned trial Court shall decide the matter without being influenced by above observations.

With the aforesaid observations, the present petition stands disposed of, so also the pending miscellaneous applications, if any.