

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**Cr.M.P.(M) No. 45 of 2010**

**Date of decision : 29.1.2010.**

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**Pappu alias Padam Singh**

**...Petitioner.**

***Versus***

**State of Himachal Pradesh**

**. ...Respondent.**

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**Coram**

**The Hon'ble Mr. Justice Kuldip Singh, Judge.**

**Whether approved for reporting ? No**

**For the Petitioner : Mr. Sanjeev Bhushan ,Advocate.**

**For the Respondent : Mr. A.K.Bansal, Addl. A.G.**

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**Kuldip Singh, Judge (Oral)**

This is an application under Section 439 Cr.P.C. for releasing the petitioner on bail in FIR No.292 of 2009 registered on 11.12.2009 at Police Station, Solan under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'Act'). The status report has been filed.

**2.** Heard and perused the record. It has been submitted on behalf of the petitioner that petitioner was arrested on 11.12.2009 on the allegations that he was selling opium in a rain shelter at Solan. The petitioner was earlier in police custody and now in judicial custody. The petitioner had filed an application for releasing him on bail which has been rejected on 16.1.2010 by the learned Special Judge, Solan. The

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<sup>1</sup> *Whether reporters of Local Papers may be allowed to see the Judgment ? yes.*

petitioner is permanent resident of Solan, he has been falsely implicated in the case. The allegation against the petitioner is of possessing 200 grams of opium. The bail application of the petitioner was wrongly rejected on 16.1.2010. The petitioner is ready to furnish bail bonds in accordance with the directions of this Court. The learned counsel for the petitioner has prayed for grant of bail to the petitioner.

**3.** The bail application has been opposed by the learned Additional Advocate General on the basis of status report. It has been alleged that on the relevant date at about 5.40 p.m. the petitioner was sitting in the rain shelter in the park and on seeing the police party, he started walking. He was holding something under the left armpit. The said person disclosed his name Padam Singh alias Pappu resident of Tiuni, District Dehradun but residing as tenant of Balwant Thakur, Udai Vihar Rabon, District Solan. He was searched and opium weighing 200 grams was recovered from petitioner, who was also carrying weighing scale and weights 10 gram, 20 gram and 200 grams. The sampling and sealing was done on the spot. The petitioner was arrested and a case under Section 18 of the Act was registered. The bail application of the petitioner has already been dismissed by the learned Additional Sessions Judge, Solan on 16.1.2010. The report from F.S.L., Junga is still awaited. It has been alleged that if the petitioner is released on bail then there is likelihood of his dealing in sale and purchase of contraband. The learned Additional Advocate General has prayed that bail may not be granted to the petitioner.

**4.** I have considered the rival contentions of the learned counsel for the parties. The case of the investigating agency against the petitioner is that 200 grams of opium was recovered from him. The report

from F.S.L., Junga has not yet been received. It is not the case of the investigating agency that contraband recovered from the petitioner is commercial quantity, therefore, rigor of Section 37 of the Act is not applicable. In the investigation in the case is complete. It has not been pointed out for what purpose further custody of the petitioner is required. The investigating agency has shown apprehension that in case the petitioner is released on bail then he will deal in the same trade but this apprehension has not been supported by further material. The trial of the case will take some time. In these circumstances, the petitioner has made out a case for grant of bail, therefore, application is allowed. The petitioner is ordered to be released on bail in FIR No. 292 of 2009 registered on 11.12.2009 at Police Station, Solan under Section 18 of the Act, on his furnishing personal bond in the sum of Rs.25,000/- with two sureties of the like amount to the satisfaction of the learned Chief Judicial Magistrate or any other Judicial Magistrate at Solan with the condition that the petitioner shall not hamper the investigation and tamper with the prosecution evidence in any manner.

**5.** The observations made in this order are for the disposal of this application only and the same shall not be treated as expression of opinion on the merits of the case.

Copy **dasti**.

**January 29, 2010.**  
(GR)

**( Kuldip Singh )**  
**Vacation Judge.**