

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

**Cr.MP(M) No. 11590/2013
Decided on : October 31, 2013**

Sham Kumar	Versus	...Petitioner
State of Himachal Pradesh		...Respondent

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Judge.

Whether approved for reporting? No

For the Petitioner : Mr. Sanjeev Bhushan, Advocate.

For the Respondent : Mr. Ramesh Thakur, Assistant Advocate
General.

Sanjay Karol, J (oral)

P.S.I Shri Sanjeev Kumar, Police Station, Sadar, District Una, H.P. is present alongwith record. Record perused and returned. Status report filed and taken on record in Cr.MP(M) No.11600/2013.

2. F.I.R. No.98/2013 under Sections 20/29-61-85 of the Narcotic Drugs and Psychotropic Substance Act was registered at Police Station, Sadar, Una, District Una, on 24.10.2013. Apprehending arrest, petitioner approached this Court seeking bail under the provisions of Section 438 of the Code of Criminal Procedure. On 23.10.2013, this Court passed an interim order directing that in the event of arrest, petitioner shall be enlarged on bail, subject to his

Whether reporters of Local Papers may be allowed to see the judgment?

complying with the conditions imposed therein. The said interim order is in operation till date.

3. The contraband substance recovered from the petitioner is 50 grams. Petitioner is permanent resident of Himachal Pradesh. He is apprehending arrest after a gap of six months. Investigating Officer states that the petitioner has fully cooperated during investigation. The investigation is almost complete and Challan is likely to be filed in the near future. He also states that custodial interrogation of the petitioner is not required.

4. Having heard learned counsel for the parties as also perused the record, I am of the considered view, more so in view of the statement made by the Investigating Officer, that petitioner has made out a case for confirmation of interim order dated 23.10.2013. Petitioner during investigation has fully cooperated; he is a permanent resident of State of Himachal Pradesh and there is no likelihood of his fleeing away from the jurisdiction of the Court in the event of trial being initiated against him. There is nothing on record to highlight the past criminal conduct of the petitioner.

5. Keeping in view the entire attending circumstances and taking a holistic view of the matter,

petitioner has made out a case in his favour. His custodial interrogation is not required at all.

6. This Court has taken into account the nature of accusation, the severity of punishment in case of conviction and the material so far collected by the prosecution during investigation. I am of the considered view that there is no apprehension made out by the State that in the event of the petitioner being enlarged on bail, he would tamper with the witnesses or extend any threats to the complainant. There is no probability of the petitioner abusing his liberty nor would he interfere or in any manner impede with the course of justice. Petitioner is also not likely to flee from justice. He, through his learned counsel, undertakes to make himself available during the course of investigation, if required, as also during trial, if any.

7. Having taken into consideration the overall attending circumstances, the petitioner has been able to show that there is reason to believe that the threat of arrest is imminent.

8. For all the aforesaid reasons, interim order dated 23.10.2013 is made absolute, subject to the conditions laid down therein. Needless to add, petitioner is permanent resident of State of H.P. and is not likely to flee from the territorial jurisdiction of the State. The petitioner shall be on

bail till such time Challan is presented in the Court for trial where after he shall approach the Court for regular bail, in accordance with law. Needless to add, during this period petitioner shall fully comply with all the statutory conditions laid down under the provisions of Section 438 of the Cr.P.C. As a matter of abundant caution, it is clarified that petitioner shall neither tamper with the evidence nor try to influence the witnesses. He shall make himself available for investigation as and when required by the Investigating Officer. He shall not leave the country without prior permission of the Court.

9. Any observation made herein above shall not be taken as an expression of opinion on the merits of the case and the trial Court shall decide the matter uninfluenced by any observation made herein above.

With the aforesaid observations, present petition stands disposed of.

Copy Dasti.

October 31, 2013 (KS)

(Sanjay Karol), J.