

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MP (M) No. 112 of 2017
Decided on: 28th February, 2017

Akshay Kumar Sharma.Petitioner.
Versus

State of Himachal Pradesh. ...Respondent.

Coram

The Hon'ble Mr. Justice Chander Bhusan Barowalia, Judge.
Whether approved for reporting?¹

For the petitioner : Mr. H.R. Chauhan, Advocate.

For the respondent : Mr. Virender K. Verma, Addl. AG,
with Mr. Pushpinder Jaswal, & Mr.
Rajat Chauhan, Law Officer.

ASI Ram Parkash, Police Station
Sundernagar, District Mandi, H.P.

Chander Bhusan Barowalia, Judge (oral).

The present bail application has been maintained by the petitioner under Section 439 of the Code of Criminal Procedure seeking his release in case FIR No.16 of 2017, dated 19.01.2017, under Sections 20 & 29 of Narcotic Drugs & Psychotropic Substances Act, registered at Police Station, Mandi, H.P.

2. As per the petitioner, he is innocent and has been falsely implicated in the present case. The petitioner has further averred that taking into consideration his age and the time since when he is behind the bars and also the quantity of the alleged recovered contraband, he may be released on bail.

¹ Whether reporters of Local Papers may be allowed to see the judgment?

3. Police report stands filed. As per the prosecution, on 19.01.2017 when I.O. was present near Agriculture Produce Barrier, Sujndernagar, and around 1:50 p.m. when police personnel were checking the vehicles, a car came from Mandi side. The said car, which was bearing registration No. HP64B-0137, was signaled to be stopped. Three persons were traveling in the vehicle, two were sitting in the front row and one was sitting in the back row. Head Constable asked for the documents of the car, however, he noticed that the driver of the car was nervous and on inquiry all the three persons got perplexed and could not answer properly. On this, Head Constable became suspicious and found it necessary to search the vehicle. Police personnel asked the passing by vehicle drivers to become witness, however, no one was ready. Subsequently, constable Kamal Kishore was sent to bring independent witnesses and he brought the independent witnesses. In presence of these independent witnesses the vehicle was searched and a bag was recovered from underneath the driver seat and on opening the same it was found to have contained black material in the shape of balls. I.O. on the basis of his personal knowledge found it to be cannabis and on weighment it was found to be 200 grams. All the three persons, i.e., Pulkit Verma, Akshay Kumar Sharma (petitioner herein) and Surinder Kumar were arrested after completed all the codal formalities.

4. Heard. The learned counsel for the petitioner has argued that the petitioner is innocent and he is only 22 years' of

age. It has also been argued that taking into consideration all the aspects of the case, he may be released on bail. Conversely, the learned Additional Advocate General has argued that the petitioner is spoiling himself as well as his friends and the present is not a fit case where the petitioner is required to be released on bail as 200 grams of cannabis has been recovered. He has prayed that the bail application of the petitioner may be dismissed.

5. I have gone through the rival contentions of the parties and the police report in detail.

6. As per the prosecution story, 200 grams cannabis was recovered from underneath the driver seat. Investigation in the present case is complete. Taking into consideration the age of the petitioner and the fact that he is not in a position to tamper with the prosecution evidence and also not in a position to flee from justice, this Court finds that the present is a fit case where the judicial discretion to admit the petitioner on bail is required to be exercised in his favour. Therefore, it is ordered that the petitioner be released forthwith on bail, on his furnishing personal bond to the tune of ₹20,000/- (rupees twenty thousand only) with one surety in the like amount to the satisfaction of learned Trial Court, in case FIR No.16 of 2017, dated 19.01.2017, under Sections 20 & 29 of Narcotic Drugs & Psychotropic Substances Act, registered at Police Station, Mandi, H.P. The bail is granted subject to the following conditions:

- (i) That the petitioner will appear before the learned Trial Court as and when required.
- (ii) That the petitioner will not leave India without prior permission of the Court.
- (iii) That the petitioner will not directly or indirectly 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 Investigating Officer or Court.

7. In view of the above, the petition is disposed of.

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28th February, 2017
(virender)

(Chander Bhusan Barowalia)
Judge