

IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

Cr.MP(M) No. 1799 of 2018

Decided on : 31.12.2018

rishu Bhaik

.....Petitioner

Versus

State of H.P.

....Respondent.

Coram:

The Hon'ble Mr. Justice Sureshwar Thakur, Judge.

Whether approved for reporting?¹

For the petitioner: Mr. Peeyush Verma, Advocate.

For the respondent: Mr. Hemant Vaid Addl. A.G. with Mr.
Y.S. Thakur & Mr. Vikrant Chandel,
Dy.A.G.

Sureshwar Thakur, J (oral)

The instant petition has been instituted by the bail petitioner under Section 439 Cr.P.C, for, his being ordered to be released from judicial custody, wherein he is extantly lodged, for, his allegedly committing offence(s) punishable under Sections 20, 21, 22, and, Section 29 of ND&PS Act, in respect

¹ Whether reporters of the local papers may be allowed to see the judgment?

whereof, FIR No. 363 of 2018 of 19.12.2018, is lodged, at Police Station West, District Shimla, Himachal Pradesh.

2. An apt status report has been filed by the Investigating Officer. It is portrayed in the status report, that, the quantum of the relevant item of contraband, recovered, from the conscious and exclusive possession of the bail applicant, hence weighing 59.59 grams of heroin. The afore weight of heroin, as, recovered, from, the conscious and exclusive possession of the bail-applicant, hence falls in non commercial quantity thereof, (i) thereupon with their being no statutory bar, against indulgence, of, bail being affordable vis-à-vis the afore weight, of, the afore relevant item(s) of contraband, as, recovered from the conscious and exclusive possession, of the bail-applicant, (ii) thereupon this Court is constrained, to allow the bail application, (iii) especially when no material has been placed on record, by the prosecution, demonstrative, of, qua in the event of bail being granted to the bail petitioner, there being/is every likelihood, of, his fleeing from justice or tampering with prosecution evidence.

Accordingly, the indulgence of bail is granted to the bail petitioner, on the following conditions:-

- i) That he shall furnish personal bond in the sum of Rs. 3,00,000/- with three sureties in the like amount, to the satisfaction of learned Special Judge, Shimla, District Shimla, H.P.
- ii) That he shall join the investigation, as and when required by the Investigating agency.
- iii) That he shall 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 from disclosing such facts to the Court or to the Police.
- iv) That upon his re-indulging in crime, thereupon the State is at liberty for motioning this Court, for cancellation of bail.
- v) That he shall not leave India without the prior permission of the Court.

vi) That he shall deposit his passport, if any, with the Police Station, concerned.

vii) That in case of violation of any of the conditions, the bail granted to the petitioner shall be forfeited and he shall be liable to be taken into custody.

3. 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.

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(Sureshwar Thakur)
Judge

31st December, 2018
(kck)