

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

**Cr.MP(M) No. 2081 of 2019**

**Date of Decision : 29<sup>th</sup> November, 2019**

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**Ritik Sharma**

**...Petitioner.**

**Versus**

**The State of Himachal Pradesh**

**...Respondent.**

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*Coram:*

**The Hon'ble Mr. Justice Anoop Chitkara, Judge.**

*Whether approved for reporting?*<sup>1</sup> **No.**

For the petitioner : Mr. Karun Negi, Advocate.

For the respondent : Mr. Anil Jaswal, Mr. Ashwani K. Sharma  
and Mr. Nand Lal Thakur, Additional  
Advocates General for the State.

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**Anoop Chitkara, Judge**

For possessing 14 grams of (Chitta) Heroin, the petitioner, who is under arrest, on being arraigned as an accused in FIR No. 142 of 2019, dated 06-11-2019, registered under Sections 21, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (herein after referred as the “NDPS Act”), in the file of Police Station, Dharampur, District Solan, H.P., disclosing non-bailable offences, has come up before this Court under Section 439 Cr.PC, seeking regular bail.

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<sup>1</sup>Whether reporters of Local Papers may be allowed to see the judgment?

2. I have seen the police file to the extent it was necessary for deciding the present petition and the same stands returned to the police official. I have heard learned counsel for the petitioner and learned Additional Advocates General for the respondent/State.

FACTS

3. The gist of the First Information Report and the investigation is as follows:

That on 05-11-2019, a police party headed by Inspector Naveen Jhalta, Incharge, Special Investigation Unit(SIU), Police Station- Sadar, Solan, District- Solan (H.P.) had set up a Naka at Sukhi Johri near Dharampur on National Highway for routine traffic checking. At about 12.05 a.m., the police officials intercepted Maruti Gypsy No. PB-80-0687 coming in a high speed from Dharampur side. In the Gypsy two persons were sitting namely Ritik Sharma and one more person who disclose his name as Shakti Singh. The police suspected that these people are carrying contraband and on checking the Gypsy, police recovered brown coloured substance from the dashboard. On checking the same from the I.O. Drug Deduction Kit, it was found to be Heroin. On weighing the same from

electronic scales, it was found to be 14 grams. Consequently, the accused was arrested. Thereafter, the other procedural formalities were completed and the aforesaid F.I.R. came to be registered.

### **REASONING**

4. Keeping in view the quantity of contraband, I am of the considered view that the judicial custody of the petitioner/accused is not going to serve any purpose whatsoever and I am inclined to grant him bail on the following grounds:

(a) As per the FIR, the substance involved in is Heroin, mentioned at Sr. No. 56 of the Notification, issued under Section 2(viia) and (xxiia) of NDPS Act, specifying small and commercial quantities of drugs and psychotropic substances.(b) The quantity of drugs involved is 14 grams (Heroin), which is less than Commercial Quantity but greater than Small Quantity. As such the rigors of Section 37 of NDPS Act shall not apply in the present case. Resultantly, the present case has to be treated like any other case of grant of bail in a penal offence.

(c) The petitioner/accused is in judicial custody since 06-11-2019.

(d) The investigation is complete and the Challan is likely to be filed in near future.

(e) No recovery was effected from the personal search of present petitioner.

(g) The petitioner is a permanent resident of the address mentioned in the memo of parties. Therefore, his presence can always be secured.

(h) I am satisfied that no purpose will be served if the bail petitioner is sent to judicial custody.

(i) I am of the considered view that, *prima facie*, petitioner has made out a case for grant of bail. His custodial interrogation is not required at all.

5. In the result, the present petition is allowed. The petitioner/accused shall be released on bail in the present case, in connection with the FIR mentioned above, on his furnishing personal bond in the sum of Rs.10,000/- with two sureties in the like amount, to the satisfaction of the learned trial Court/Sessions Judge/Additional Sessions Judge, Solan, District Solan, H.P. The Court executing the personal and surety bonds shall ensure that the details of identity of the bail-petitioner and sureties like Adhar Card, Pan Card, phone numbers, if available are mentioned in the bonds and names, addresses and phone numbers of the family members of the petitioner/accused are also mentioned in the personal bonds.

The learned counsel for the accused as well as the attesting person shall explain the conditions of this bail to the petitioner.

6. This Court is granting the bail, subject to the conditions mentioned herein. The petitioner/accused undertakes to comply with all directions given in this order and the furnishing of bail bonds by the petitioner/accused is acceptance of all such conditions:

- a) The petitioner is directed to join the investigation as and when called by the Investigating Officer and the petitioner undertakes to appear before the investigating officer as and when directed to do so. However, whenever the investigation takes place within the boundaries of the Police Station or the Police Post, then the accused shall not be called before 9 a.m. and shall be let off before 5 p.m.
- b) The petitioner shall co-operate in the investigation.
- c) The petitioner shall not hamper the investigation.
- d) The petitioner undertakes not to contact the complainant and witnesses, to threaten or browbeat them or to use any pressure tactics.
- e) The petitioner shall neither influence nor try to control the investigating officer, in any manner whatsoever.

f) The petitioner undertakes not to 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 from disclosing such facts to the Court or any Police Officer or tamper with the evidence.

g) In case, the petitioner is arraigned as an accused of the commission of any offence, prescribing the sentence of imprisonment of more than three years and in case the bail petitioner is arraigned as an accused in any case, under the provisions of the NDPS Act, irrespective of the quantity, be it a small quantity, then within thirty days of knowledge of such FIR, the petitioner shall intimate the SHO of the present police station, with all the details of the present FIR as well as the new FIR. It shall be open for the State to apply to this Court, for cancellation of this bail, if it deems fit and proper.

h) The petitioner shall surrender all the fire arms alongwith ammunition and arms licences, if taken, before the authority which has given his such permission, within 30 days from today.

i) The petitioner undertakes to attend the trial.

7. It is clarified that the present bail order is only with respect to the above mentioned FIR. It shall not be construed to

be a blanket order of bail in all other cases, if any, registered against the petitioner.

8. 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.

Petition stands allowed in the aforesaid terms.

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**(Anoop Chitkara),  
Judge.**

29<sup>th</sup> November, 2019 (NK)