

**HIGH COURT OF JAMMU, KASHMIR AND LADAKH
AT JAMMU**

Bail App. 421/2022

Shadab Ishaq Wani and another

.....Applicant(s)

Through:- Mr. S. A. Hashmi, Advocate

v/s

UT of J&K

.....Respondent(s)

Through:- Mr. Adarsh Bhagat, GA

Coram:

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL, JUDGE

ORDER

1. The applicants have preferred the instant bail application for grant of bail in FIR No. 249/2022 registered with Police Station, Doda for commission of offences punishable under Sections 08/21/22 of NDPS Act.
2. Learned counsel for the applicants submits that the applicants are innocent persons and have not committed any offence nor even violated law of the land. It is stated that applicants are entitled to bail as alleged contra-band attributed to applicant No. 1 is far below the commercial quantity and is little more than the small quantity and recovery attributed to the applicant No. 2 falls in the category of small quantity, as such, rigor of Section 37 of NDPS Act has no application in the instant case.
3. Status report has been filed by the respondent No. 1 stating therein that on 26.17.2022 ASI Achhru Ram no. 876I27EXJ along with other officials was on naka duty at near naka point Bharat Road, Doda

During the naka checking duty at about 1545hrs ASI Chhru Ram gave a stop signal to one wagnor car (white) bearing registration no.JK06A/3499 in which two persons were sitting inside the said car. During the search of Shadab Ishaq Wani, Achhru ram recovered 5/6 gms heroine (chita) like substance wrapped in a white transparent polythene from the right pocket of the pants of the Shadab Ishaq Wani, whereas after searching the Farooq Ahmed ASI, Achhru ram recovered 2/3 gms heroine (Chita) like substance wrapped in a white transparent polythene from the left pocket of the pants of the Farooq Ahmed. It is further stated that after weighing the heroine (chita) like substance recovered from Farooq Ahmed weight came exact 1.4 gms. Gms. Accordingly weighing memo was prepared on spot. 1 sample of 1gm was taken out from 5.2 gms of heroine (chita) like substance, where exhibit containing 1gm of heroine like substance was marked as A-1 and remaining packet containing 4.2 gm. Similarly one sample of 1 gm heroine (Chita) like substance was taken out from 1.4gms of heroine(Chita) like substance, where packet containing 1gm of heroine (Chita) like substance and remaining packet containing 0.4 gm of heroine (Chita) like substance was marked as B.

4. Learned counsel for the petitioner submits that the investigation of the case is complete and challan has been filed in the Court of learned Additional Sessions Court, Doda and the petitioners undertake to extend full co-operation to the investigation agencies and shall also appear before the trial Court as well as before the investigation officer as and when they are required.

5. The investigation in this case has been completed and as such keeping the applicants in custody will not serve any purpose.

6. Having regard to the contents of the bail applications coupled with the submissions made by learned counsel for the parties, a ground for grant of bail in favour of the petitioners is made out, which is, accordingly, granted in case they furnish personal bond to the tune of Rs. One lakh as well as surety bond of the like amount each to the satisfaction of the learned Additional Sessions Judge, Doda on the following terms and conditions:-

- (i) That petitioners shall cooperate with the investigating agency and shall also remain present as and when directed by the investigating agency;
- (ii) That they shall not temper with prosecution evidence directly or indirectly against them at the trial.
- (iii) That they shall not leave the territorial jurisdiction of Police Station, Doda without prior permission;
- (iv) That they shall remain present before the Trial Court on each date of hearing;

7. The bail application is, accordingly, disposed of.

(VINOD CHATTERJI KOUL)
JUDGE

Jammu
31.12.2022
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