

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

**Cr. MP (M) No. 309 of 2023**

**Reserved on: 27.02.2023**

**Decided on: 28.02.2023**

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Ankit Chauhan

....Petitioner

Versus

State of Himachal Pradesh

....Respondent

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*Coram*

**The Hon'ble Mr. Justice Sushil Kukreja, Judge.**

Whether approved for reporting?<sup>1</sup>

For the petitioner : Ms. Nargis Thakur, Advocate.

For the respondent : Mr. B.C. Verma, Addl. AG with  
Mr. R.P. Singh, Dy. AG.

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**Sushil Kukreja, Judge**

By way of instant petition, filed under Section 439 of the Criminal Procedure Code, the petitioner is seeking bail in case F.I.R. No. 17/2023, dated 03.02.2023, registered at Police Station Rampur, District Shimla, H.P., under Section 21 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as "NDPS Act").

2. The prosecution story, in brief, is that on 03.02.2023 a *rukka* was received at Police Station Rampur

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Yes.

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

that on 02.02.2023 at around 12:25 (midnight), while the police party was on routine patrolling duty near Sarvapalli B. Ed. College, Nogli, they saw a person coming from B. Ed. College road side towards Taklech Nogli road. On seeing the police party, the person started running backwards and threw a bag, which he was carrying. However, the police nabbed the person at some distance. When the bag, which was thrown by the person, was opened, it was found containing another transparent polythene bag, in which, a grey coloured solid substance was recovered, which on the basis of experience was found to be *chitta*/heroin. On inquiry, the person disclosed his name as Ankit Chauhan (petitioner herein). On weighment, the recovered contraband was found to be 6.21 grams. Thereafter, the police completed all the codal formalities and FIR as detailed hereinabove was registered against the petitioner. Consequently, he was arrested.

3. Learned counsel for the petitioner has contended that the petitioner is innocent and has been falsely implicated in this case. She has further contended

that investigation in this case is almost complete and nothing remains to be recovered at the instance of the petitioner as such, the petitioner, who is only 26 years old boy and is in custody since his arrest, is required to be released on bail.

4. Per contra, the learned Additional Advocate General opposed the bail application on the ground that keeping in view the gravity of the offence alleged to have been committed by the petitioner, he is not entitled to be enlarged on bail.

5. I have heard the learned counsel for the petitioner as well as learned Additional Advocate General and have also gone through the record of the case and I am of the firm opinion that the petitioner has made out a case for grant of bail, as a perusal of the record indicates that the quantity of *chitta*/heroin, which is involved in the present case is an intermediate quantity. Therefore, rigors of Section 37 of the NDPS Act are not applicable in the present case. The petitioner was arrested on 03.02.2023 and since then he is behind the bars. There is no evidence

on record to suggest that the petitioner will tamper with the prosecution evidence or will flee from justice, if released on bail, as he is permanent resident of District Shimla. Moreover, the chargesheet is yet to be filed and trial may take sufficiently long time to conclude. Therefore, no fruitful purpose will be served if the petitioner, who is only 26 years of age, is kept behind the bars for an unlimited period.

6. Considering the overall facts and circumstances of the case and since the quantity of *chitta*/heroin involved in this case is an intermediate quantity, this Court finds that the present is a fit case where judicial discretion to admit the petitioner on bail is required to be exercised in his favour. Accordingly, the bail application is allowed and it is ordered that the petitioner, who has been arrested by the police, in case F.I.R. No. 17/2023, dated 03.02.2023, registered at Police Station Rampur, District Shimla, H.P., under Section 21 of NDPS Act, shall be forthwith released on bail, subject to his furnishing personal bond to the tune of Rs. 50,000/- (Rupees fifty thousands), with one surety in the like amount to the satisfaction of learned Trial

Court. This bail order is subject, however, to the following conditions:-

- (i) *that the petitioner will appear before the Court and the Investigating Officer whenever required ;*
- (ii) *that he 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 any facts to the Court or the police;*
- (iii) *that he will not tamper with the prosecution evidence nor he will try to win over the Prosecution witnesses or terrorise them in any manner;*
- (iv) *that he will not repeat the offence, as is alleged to have been committed by him.*
- (v) *that he will not deliberately and intentionally act in a manner which may tend to delay the investigation or the trial of the case.*
- (vi) *that he will not leave India without prior permission of the Court.*

7. Needless to say that the Investigating agency shall be at liberty to move this Court for cancellation of the bail, if any of the aforesaid conditions is violated by the petitioner.

8. Be it stated that any expression of opinion given in this order does not mean an expression of opinion on the merits of the case and the trial Court will not be influenced by any observations made therein.

**February 28, 2023**  
(raman)

**(Sushil Kukreja)**  
**Judge**