

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr.MP(M) No. 1266 of 2023

Decided on: 31.5.2023

Raj Kumar @ Rahul

.....Petitioner.

Versus

State of Himachal Pradesh

.....Respondent.

Coram

The Hon'ble Mr. Justice Satyen Vaidya, *Judge.*

Whether approved for reporting?

For the petitioner : Mr. H.S. Rangra, Advocate.

**For the respondent : Mr. B.N. Sharma, Additional
Advocate General.**

**ASI Nagender Singh, Police
Station, Balh, District Mandi, in
person.**

Satyen Vaidya, *Judge* (Oral)

Petitioner has prayed for grant of bail in case registered vide FIR No. 192/2021, dated 18.6.2021, registered under Section 21 of NDPS Act, at Police Station, Balh, District Mandi.

2. The allegation against the petitioner is that he was found in conscious possession of 19.60 grams of *Chita/Heroin*.

Initially, petitioner was released on bail by learned Special Judge on 2.7.2021. The trial commenced against the petitioner but during trial, he did not attend the proceedings, resulting in issuance of non-bailable warrants against him. After execution of the warrants, petitioner was again arrested on 11.3.2023. Petitioner is in custody since then.

3. It is submitted on behalf of the petitioner that the petitioner is of young age and his pre-trial incarceration for indefinite period will definitely mar his career. It is further submitted that accusation against petitioner is that he was in possession of intermediate quantity of contraband, which will not attract the rigors of Section 37 of the NDPS Act. Petitioner is stated to be permanent resident of Village & P.O. Kummi Tehsil Balh, District Mandi. He undertakes to abide by all the terms and conditions, as may be imposed.

4. On the other hand, learned Additional Advocate General has opposed the prayer on the ground that the petitioner has criminal history. He is accused in a number of other cases. The conduct of the petitioner has not been above board and despite having been released on bail, he showed no

respect for law and did not appear before learned Special Judge.

5. I have heard learned counsel for the parties and carefully gone through the record.

6. This Court has been informed that the petitioner is undergoing trial, in which prosecution has cited total eighteen witness, out of which, only eight have been examined till date. In these facts and circumstances, it is not likely that the trial will be concluded within reasonable time.

7. Petitioner was allegedly found in possession of intermediate quantity of *Chitta/Heroin*, therefore, the rigors of section 37 of NDPS Act will not apply in his case. The fact of matter is that the petitioner was released on bail on earlier occasion also and he has been arrested again only when he failed to put in appearance before learned Special Judge.

8. Keeping in view the young age of the petitioner, his pre-trial incarceration for indeterminate period will not serve any fruitful purpose, rather it will be detrimental in his career building. As regards the involvement of the petitioner in other matters, learned counsel for the petitioner has submitted that no other case under NDPS Act is pending against the petitioner. In

such view of the matter, this again cannot be taken to be a factor to deny the right of liberty to the petitioner at this stage.

9. Since, the petitioner had earlier jumped the bail granted to him, he can be put to more stringent terms in order to secure timely disposal of the trial. Petitioner is permanent resident of Village & P.O. Kummi, Tehsil Balh, Distt. Mandi.

10. Keeping in view the peculiar facts of the case, the petition is allowed. Petitioner is ordered to be released on bail in case registered vide FIR No. 192/2021, dated 18.6.2021, registered under Section 21 of NDPS Act, at Police Station, Balh, District Mandi, on his furnishing personal bond in the sum of ₹1,00,000/- with one surety in the like amount to the satisfaction of learned Special Judge, subject to following conditions:

- i) That the petitioner shall appear before learned trial Court on each and every date and shall not delay the trial.
- ii) That the petitioner 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 true facts to the Court or to any police officer;
- iii) That the petitioner shall be liable for immediate arrest in the instant case in the event of petitioner violating the conditions of this bail.
- iv) That the petitioner shall not leave India without prior permission of the Court.

11. However, it is made clear that the observations made hereinabove shall have no bearings on the merit of the case and shall be construed for the disposal of the present petition only.

12. The petition stands disposed of. Pending miscellaneous application(s), if any, shall also stand disposed of.

(Satyen Vaidya)
Judge

May 31, 2023
(vs)