

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No. 1883 of 2020

Date of Decision: November 2, 2020**Roop Singh****...Petitioner.****Versus****State of Himachal Pradesh****...Respondent.***Coram:***The Hon'ble Mr. Justice Anoop Chitkara, Judge.***Whether approved for reporting?¹ Yes.*

For the petitioner: Mr. Sunil Chauhan, Advocate.

For the respondent: Mr. Nand Lal Thakur, Addl. Advocate General,
Ms. Divya Sood, Dy.AG & Mr. Ram Lal Thakur,
Asst. AG.Mr. Vijay Chaudhary, Advocate, as Amicus
Curiae.**COURT PROCEEDINGS CONVENED THROUGH VIDEO CONFERENCE****Anoop Chitkara, Judge.(oral)**

An under-trial prisoner, in custody since 11.12.2019, has come up before this Court under Section 439 of the Code of Criminal Procedure, 1973 (CrPC), seeking bail, under Section 20 of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act), for possessing 1.267 kilograms of charas (Cannabis).

2. The police arrested the petitioner, in FIR No. 113 of 2019, dated 11.12.2019, registered under Section 20 of the NDPS Act, in Police Station Rajgarh, Distt. Sirmour, Himachal Pradesh, disclosing cognizable and non-bailable offenses. Earlier, the petitioner had filed a petition under Section 439 CrPC before the concerned Sessions Judge. However, vide order dated 9.1.2020, Ld. Special Judge-I, Sirmour, District at Nahan, HP, dismissed the petition. Thereafter, the petitioner had also

¹ **Whether reporters of Local Papers may be allowed to see the judgment?**

moved similar application before this Court which was registered at Cr.MP(M) No. 91 of 2020 but the same was also rejected vide order dated 28.2.2020.

3. The petitioner who is aged 58 years and is facing trial for possessing commercial quantity of cannabis (charas) has come up before this Court seeking bail on the grounds that while under incarceration he suffered Covid-19 disease and now although he has recovered and tested negative but is under extreme anxiety and trauma.

4. In response to the petition, Mr. Nand Lal Thakur, learned Additional Advocate General has placed on record the medical record of the petitioner Roop Singh in which it is mentioned that he had suffered Covid-19 infection on 7.10.2020 but now he has no symptoms and is Covid-19 negative.

5. Heard learned Counsel for the parties and Mr. Vijay Chaudhary, learned Amicus Curiae and also gone through the data supplied by the learned Amicus Curiae as well as Ms. Aishwarya Sethuraman, Law Intern. Mr. Vijay Chaudhary, learned Amicus Curiae assisted by Ms. Aishwarya Sethuraman, Law Intern, has also drawn attention of the Court to the guidelines issued by the Government of India in this regard, information from the Mayo Clinic and Centre for Disease Control and Prevention (CDC) and various other prestigious and medical institutions. Without referring to such data, as on date, the knowledge about Covid-19 disease is slightly more than the view of a room which one gets while peeping through its keyhole. Since it is a new disease, as such, findings are at the stage of hypothesis. Still consensus appears that the age of vulnerability starts from 55 years upwards. Furthermore, any person with co-morbidity conditions is also vulnerable depending upon the nature of organs involved or disease whether it is auto immune or of metastatic carcinomatous growth.

6. As per the medical reports of the prison, the petitioner has no co-morbidity but is 58 years of age. Mr. Sunil Chauhan, learned Counsel for the petitioner, on instructions, submits that the petitioner is under immense stress and anxiety and he further states that similar is the position of the petitioner's family members. He submits that in case this Court grants him one month's interim bail to enable him

to spend some time with his family members it would certainly release his anxiety and stress.

7. Mr. Nand Lal Thakur, learned Additional Advocate General submits that in case this Court grants interim bail to the petitioner then the Court must specify the date on which the petitioner would surrender and the same should be with bond amount of Rs. 1 lac with one surety in the like amount.

8. Mr. Vijay Chaudhary, learned Amicus Curiae has drawn attention to the bail order of Hon'ble Supreme Court in SLP(Crl.) No. 2194 of 2020, titled as Rahul @ Vijay vs. State of Rajasthan, decided on 15th May, 2020, whereby the Hon'ble Supreme Court had given interim bail to a prisoner who was suffering from Covid-19.

9. Given the age of the petitioner and the contention that he and his family are under stress and anxiety and furthermore that he is apparently not of flight risk, this Court grants him interim bail for a period of two weeks (fourteen days) subject to the conditions mentioned below with outer limit that he must furnish bail bonds well in time and if he fails to furnish the bail bonds in time, still he must surrender before the concerned Jail by 27.11.2020 at 4.00 p.m. latest, and that in case he furnish bail bonds earlier then immediately on the expiry of fourteen days.

10. Thus the petitioner shall be released on interim bail subject to his furnishing a personal bond of Rs. One Lac only (INR 1,00,000/-) with one surety of a similar amount to the satisfaction of the Chief Judicial Magistrate/Ilaqua Magistrate/Duty Magistrate/the Court exercising jurisdiction over the concerned Police Station where FIR is registered undertaking therein to surrender before the Concerned Jail after the completion of fourteen days interim bail and under no circumstance later than 27th November, 2020, by 4.00 p.m. The furnishing of bail bonds shall be deemed acceptance of all stipulations, terms, and conditions of this bail order:

1. The petitioner shall give details of AADHAR number, phone number(s) (if available), WhatsApp number (if available), e-mail (if available), personal bank account(s) (if available), on the reverse page of the personal bonds and the officer attesting the personal bonds shall ascertain the identity of the bail-petitioner, through these documents.

2. The Attesting officer shall on the reverse page of personal bonds, mention the permanent address of the petitioner along with the above-mentioned information, whatever is available.
3. The petitioner shall not influence, threaten, browbeat, or pressurize the witnesses and the Police officials.
4. The petitioner shall not make any inducement, threat, or promise, directly or indirectly, to the Investigating officer, or any other person acquainted with the facts of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.

11. The learned Counsel representing the accused and the Officer in whose presence the petitioner puts signatures on personal bonds shall explain all conditions of this order to the petitioner, in vernacular and if not feasible, in Hindi or English.

12. I express my gratitude to Mr. Vijay Chaudhary, learned Amicus Curiae and Ms. Aishwarya Sethuraman, Law Intern, for the excellent assistance rendered by them in this matter.

13. In return for the interim protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior.

The petition stands disposed of in the terms mentioned above. All pending applications, if any, stand closed.

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(Anoop Chitkara),
Judge.

Nov 2, 2020 (PK)