



IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA

Cr.MP(M) No. 366 of 2023

Reserved on 10.3.2023.

Decided on : 17.3.2023.

Anil Kumar

...Petitioner.

Versus

State of H.P.

...Respondent

Coram:

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

Whether approved for reporting?¹ Yes.

For the petitioner : Mr. Prashant Sharma, Advocate.

For the respondent : Mr. I. N. Mehta, Sr. Addl. A.G.
with Mr. Rajat Chauhan, Law Officer.

Satyen Vaidya, Judge:

The petitioner has approached this Court for grant of pre-arrest bail in case FIR No. 24 of 2023, dated 8.2.2023, registered at Police Station, Barmana, District Bilaspur, H.P. under Sections, 21, 25 and 29 of the Narcotic Drugs & Psychotropic Substances Act, (for short "the Act").

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

2. Brief facts necessary for adjudication of the petition are that on 8.2.2023, police party apprehended a car near place Barmana in District Bilaspur, H.P., which was being plied without any registration number. Three persons namely Surender Kumar, Ravi Kumar and Shesh Ram were occupants of the car. On suspicion, the car was searched in presence of independent witness. 15.13 grams of chitta/heroin was recovered from the vehicle. Case was registered and all the three occupants were arrested.

3. During investigation, it was found by the Investigating Agency that the occupants of the car had procured the recovered contraband from the petitioner after paying him Rs. 40,000/-. Accordingly, petitioner was also named as a co-accused.

4. Petitioner has prayed for grant of pre-arrest bail on the ground that he is innocent and is not connected with the crime in question. It is submitted that petitioner is a law abiding person and has roots in society. As per petitioner, his implication in the present case is totally false. Petitioner is stated to be permanent resident of VPO Panjgai, Tehsil Sadar, District Bilaspur, H.P. He has

undertaken to abide by all the terms and conditions, as may be imposed against him.

5. On the other hand, the prayer for grant of pre-arrest bail to petitioner has been vehemently opposed on behalf of the respondent-State. It is submitted that the petitioner has a long standing criminal background. He has been involved in 38 criminal cases, including five cases under the NDPS Act. It is further submitted that the petitioner has no respect for law and whenever he is released on bail in one case, petitioner comes up with another offence. Learned Additional Advocate General has contended that the custodial interrogation of the petitioner is required as certain recoveries are to be effected from him and supply chain of contraband is to be unearthed.

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

7. The status report filed on behalf of the respondent-State reveals that the investigating agency has been able to lay hands on some material, which prima-facie establishes a link between the occupants of the car apprehended with chita/ heroin and the petitioner. The

CDRs and other data, indicate exchange of calls and location of petitioner and other co-accused at or around the same place, at the time when alleged offence was committed.

8. It has been submitted on behalf of the respondent-State that though, after being admitted to interim bail by this Court, petitioner has joined the investigation but neither has he handed over the SIM Card of his mobile to the police for analysis nor has disclosed the source of procurement of contraband by him.

9. The investigation is still going on. The drug menace has attained serious proportion. All the accused persons apprehended in the car are in the age group of 23 to 27 years. Even the adolescents have not been spared. Besides being a law and order problem, it has become a serious social issue. Such a serious invasion in the social structure needs to be curbed with heavy hands and for such purpose, police needs to have the proper access to the accused, may be by way of custodial interrogation in appropriate cases.

10. As noticed above, there is prima-facie material on record to suggest some link between the petitioner and other co-accused. It is not the case of the petitioner that the other co-accused are his relatives or friends. Petitioner is aged about 44 years and there is age gap between him and other co-accused. The link needs to be probed. The recoveries are yet to be effected from petitioner. In such view of the matter, it cannot be said that the custodial interrogation of petitioner would be unjustified in this case. Petitioner is not the first offender. He has long list of cases in which he has been allegedly involved. Respondent has provided a list of 38 cases, in which petitioner has remained involved. The cases registered against the petitioner have been for serious offences like attempt to murder, rape and offences under the NDPS Act besides other.

11. It has also been urged on behalf of the petitioner that the other co-accused have already been released on bail by learned Special Judge, Ghumarwin, District Bilaspur, H.P. on 9.3.2023. Noticeably, the other co-accused have been bailed out after completion of

investigation qua them. They had been in custody since 8.2.2023. Petitioner has prayed for pre-arrest bail and he cannot seek parity with other co-accused, who have been granted regular bail after their custody of about one month.

12. In light of above discussion, there is no merit in the petition and the same is rejected.

13. 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.

17th March, 2023
(kck)

(Satyen Vaidya)
Judge