

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA

Cr.M.P.(M) No. 537 of 2021
Decided on: 01.04.2021

Durga Prasad

.....petitioner

Versus

State of Himachal Pradesh

..... respondent

.....
Coram

Ms. Jyotsna Rewal Dua, *Vacation Judge*.

Whether approved for reporting?¹

For the petitioner :

Mr. Sahil Malhotra, Advocate.

For the respondent :

Mr. Anil Jaswal, Additional Advocate
General **(through video conferencing)** with
Mr. Amit Dhumal, Deputy Advocate
General.

Jyotsna Rewal Dua, Judge (Oral)

For possessing 3.277 grams of Cannabis, petitioner is in custody w.e.f. 3.11.2020, as a co-accused in FIR No.394/20, dated 3.11.2020, registered under Sections 20, 25 and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (The Act for short) at Police Station Balh, District Mandi, H.P. By means of instant petition under Section 439 of the Code of Criminal Procedure, a prayer has been made for his enlargement on interim bail for a period one month.

2. Heard learned counsel for the parties and gone through the status report filed by the respondent-State.

¹ Whether reporters of the local papers may be allowed to see the judgment?

3. Learned counsel for the petitioner submitted that the petitioner's family comprising one son and one daughter is presently passing through very tough times. His son aged around 30 years is suffering from mental ailment since the year 2013. Learned counsel has also produced the medical records relating to ailment of petitioner's son and submitted that recently his condition has further worsened. It is also pointed out that the married daughter of the petitioner is now facing divorce proceedings before the Courts at Mandi and there is none to look after her interest and to guide her in such crucial times in respect of her matrimonial dispute. Learned counsel further stated that subsequent to petitioner's arrest, his wife suffered a cardiac attack and died on 17.01.2021. Petitioner was granted one day interim bail for 26.1.2021 to attend the last rites and rituals of his deceased wife. The petitioner himself had been tested covid positive on 28.01.2021 and had to remain in isolation as per standard operative procedure. All these factors have caused mental trauma to the petitioner. He is now in pitiable condition with deteriorating health. In support of his prayer for enlargement of petitioner on interim bail learned counsel relied upon judgments in *Special Leave to Appeal No(s). 2194/2020*, titled *Rahul @ Vijay Vs. The State of Rajasthan*, decided by the Hon'ble Apex Court on 15.05.2020 and *Cr. MP(M) No. 1883/2020*, titled *Roop Singh Vs. State of Himachal Pradesh* decided on 2.11.2020 & *Cr.MP(M) No. 2276/2020*, titled *Ramesh Kumar Vs. State of Himachal Pradesh* decided on 31.12.2020, passed by a coordinate Bench of this Court.

Learned Additional Advocate General submitted that in case the Court is inclined to grant interim bail to the petitioner then the same be made subject to stringent conditions.

4. Considering the above facts in totality in respect of the health of the petitioner, mental ailment of his son, pending divorce proceedings of the petitioner's daughter coupled with death of his wife on 17.1.2021 and the potential impact of stress, anxiety of all these factors on the petitioner, I am inclined to grant interim bail to the petitioner for a period of two weeks with outer limit of 18.04.2021 by 2.00 P.M. The petition, therefore, is allowed and the petitioner is ordered to be released on interim bail in the above mentioned FIR for a period of two weeks, subject to his furnishing personal bond in the sum of Rs.1,00,000/-with one local surety in the like amount to the satisfaction of the learned trial Court having jurisdiction over the concerned Police Station. Petitioner shall surrender before the concerned jail on or before 18.04.2021 by 2.00 P.M. The bail is being granted subject to the following conditions:-

- (i). Petitioner shall not temper with the evidence or hamper the investigation in any manner whatsoever;
- (ii) Petitioner shall not make any inducement, threat or promise, directly or indirectly, to the Investigating Officer or any person acquainted with the facts of the case to dissuade him/her from disclosing such facts to the Court or any Police Officer;
- (iii). Petitioner will not leave India.

(iv). Petitioner shall inform the Station House Officer of the concerned police station about his place of residence during bail. Any change in the same shall also be communicated promptly. Petitioner shall furnish details of his Aadhar Card, Telephone Number, Mobile number, E-mail address, PAN Card, Bank Account Number, if any, to the station house officer.

(v) Petitioner shall report at Police Station Balh District Mandi everyday at 11.00 A.M during the period of his interim bail. Petitioner shall surrender himself before the concerned jail authorities after completion of fourteen days interim bail and under no circumstances later than 18.04.2021 by 2.00 P.M.

It is clarified that the interim bail is being granted in the projected facts of the case and will have no bearing on the merits of the matter.

The petition stands disposed of in the above terms, so also the pending miscellaneous applications, if any.

Authenticated copy of the order be supplied to the learned counsel for the parties by the Court Master.

Jyotsna Rewal Dua
Judge

April 01, 2021

(Rohit)