

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

**Cr.MP(M) No. 578 of 2021  
Decided on: 22<sup>nd</sup> April, 2021**

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Sanjeev Kumar .....Petitioner  
Versus  
State of Himachal Pradesh ...Respondent

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*Coram*

***The Hon'ble Mr. Justice Chander Bhusan Barowalia, Judge.  
Whether approved for reporting?<sup>1</sup> Yes.***

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(Through video conferencing)

For the petitioner: Mr. Varun Chandel, Advocate.

For the respondent/State: Mr. S.C. Sharma, Additional Advocate  
General.

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**Chander Bhusan Barowalia, Judge.** *(oral)*.

The instant bail application has been maintained by the petitioner under Section 439 of the Code of Criminal Procedure seeking his release, in case FIR No. 23 of 2021, dated 22.03.2021, under Section 21 of the ND&PS Act, registered in Police Station Darlaghat, District Solan, H.P.

2. As per the averments made in the petition, the petitioner is innocent and has been falsely implicated in the present case. He is resident of the place and neither in a position to tamper with the prosecution evidence nor in a position to flee from justice. No fruitful purpose will be served by keeping him behind the bars, so he be released on bail.

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<sup>1</sup> Whether reporters of Local Papers may be allowed to see the judgment? Yes.

3. Police report stands filed. Tersely, as per the prosecution story, on 04.01.2021, a police team was on routine traffic checking at place Link Road Manlog Badog. Around 01:30 p.m., police stopped an Alto car, having registration No. HP 24C 0566, and asked its driver about the documents of the vehicle. The driver of the vehicle turned perplexed and tried to muffle his face and also threw something towards the gear liver. On suspicion, police conducted further inquiries and the driver of the vehicle disclosed his name as Sanjeev Kumar (petitioner herein). Thereafter, the police conducted search of the vehicle and recovered a polythene packet, which contained two polythene packets, which were stuffed with some brownish substance. The recovered contraband was found to be heroin and on weighment it was 35 grams. Thereafter, the police completed all the codal formalities. The petitioner was arrested, police recorded the statements of the witnesses and prepared the spot map. The contraband, on being chemically examined, was found to be Diacety Morphine (Heroin). As per the police, in between 01.09.2020 to 30.03.2021 total Rs. 4,90,338/- deposited and total Rs. 4,94,257/- withdrawn from the bank account of the petitioner. Lastly, it is prayed that the bail application of the petitioner be dismissed, as the petitioner is involved in selling narcotics. There is possibility that in case at this stage, if the petitioner is enlarged on bail, he may flee from justice and may tamper with the prosecution evidence, so his bail application be dismissed.

4. I have heard the learned Counsel for the petitioner, learned Additional Advocate General for the State and gone through the records, including the police report, carefully.

5. The learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. He has further argued that the petitioner is resident of the place and neither in a position to tamper with the prosecution evidence nor in a position to flee from justice. No fruitful purpose will be served by keeping the petitioner behind the bars for an unlimited period, as investigation is complete and nothing remains to be recovered at the instance of the petitioner. The custody of the petitioner is not at all required by the police for investigation, so the bail application be allowed. Conversely, the learned Additional Advocate General has argued that the petitioner was found involved in a serious offence and in case, at this stage, he is enlarged on bail, he may tamper with the prosecution evidence and may also flee from justice. It is prayed that the bail application of the petitioner be dismissed.

6. In rebuttal the learned Counsel for the petitioner has argued that the petitioner is neither in a position to flee from justice nor in a position to tamper with the prosecution evidence, as he is permanent resident of the place. His custodial interrogation is not at all required by the police, as nothing remains to be recovered at the instance of the petitioner and the quantity allegedly recovered from the

petitioner is intermediate quantity and not the commercial quantity. Moreover, the petitioner cannot be kept behind the bars for an unlimited period, so the petitioner may be enlarged on bail by allowing the instant bail petition.

7. At this stage, after considering the age of the petitioner, the fact that he neither in a position to tamper with the prosecution evidence nor in a position to flee from justice, as he is resident of the place and also considering the facts that nothing remains to be recovered at the instance of the petitioner, his custody is not at all required by the police, considering the quantity of the contraband allegedly recovered from the petitioner, the fact that the petitioner is ready and willing to abide by the terms and conditions of bail, in case granted, and also considering the overall facts, which have come on record, and without discussing the same at this stage, this Court finds that the present is a fit case where the judicial discretion to admit the petitioner on bail, is required to be exercised in his favour. Accordingly, the petition is allowed and it is ordered that the petitioner, in case FIR No. 23 of 2021, dated 22.03.2021, under Section 21 of the ND&PS Act, registered in Police Station Darlaghat, District Solan, H.P., shall be released on bail forthwith in this case, subject to his furnishing personal bond in the sum of Rs. 50,000/- (rupees fifty thousand) with one surety in the like amount to the satisfaction of the

learned Trial Court. The bail is granted subject to the following conditions:

- (i) That the petitioner will appear before the learned Trial Court/Police/authorities as and when required.
- (ii) That the petitioner will not leave India without prior permission of the Court.
- (iii) That the petitioner 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 such facts to the Investigating Officer or Court.

8. In view of the above, the petition is disposed of.

Copy *dasti*.

**22<sup>nd</sup> April, 2021**  
(*virender*)

**(Chander Bhusan Barowalia)**  
**Judge**

High Court