

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.: 2360 of 2024

Reserved on : 22.11.2024

Decided on : 29.11.2024

Sukhdev Singh

....Petitioner.

Versus

Narcotics Control Bureau, Sub Zone Mandi, District Mandi, H.P.

...Respondent.

Coram

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

Whether approved for reporting?¹ No

For the petitioner : Mr. Rakesh Kumar Chaudhary
and Mr. Panku Chaudhary,
Advocates.

For the respondent : Mr. Ashwani Pathak, Senior
Advocate, with Mr. Dev Raj,
Advocate.

Satyen Vaidya, Judge

Petitioner is an accused in case registered under Sections 8, 20, 29 & 60 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'ND&PS Act') vide Crime No.75 of 2022, dated 05.11.2022, by the Narcotics Control Bureau (for short NCB), Sub Zone, Mandi District Mandi H.P. Petitioner is facing trial along

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

with his co-accused before learned Special Judge, Mandi in a case titled NCB vs. Sukhdev Singh and others (CIS Registration No. 47/2023).

2. The allegation of the prosecution is that the NCB had received a secret information on 04.11.2022 with respect to petitioner along with his co-accused being involved in trafficking of Charas and their proposed travel on 05.11.2022 from District Kullu to Patiala (Punjab) in white coloured car bearing registration No. PB-13-AR-7929 with huge quantity of Charas.

3. The officials of NCB with assistance of local police of Police Station Sadar, District Mandi had allegedly laid a Naka at Bhiuli Chowk, Mandi on 05.11.2022. The above noted car was intercepted at about 8.00 A.M. The petitioner was found driving the car, whereas his co-accused Maja Ram and Harneet Kaur were found occupying front passenger and rear seat respectively. The car was checked/searched. Since, nothing was found from initial search, the officials of NCB suspected the concealment of contraband in some cavity of the vehicle. The car was taken to a mechanic and with his help, the

Charas weighing 8.742 Kgs. was recovered from a cavity in the vehicle.

4. It is also the case of prosecution that a few more persons are involved in the crime, but they had absconded. The prosecution had been launched against the petitioner and two other accused found inside the car, whereas, liberty has been reserved to file supplementary challan against other accused as and when apprehended.

5. The petitioner has prayed for grant of bail on the ground that he has been falsely implicated. The right of bail has also been claimed on the ground that the right of petitioner to speedy trial has been violated.

6. The prayer of the petitioner has been opposed by the respondent by alleging that petitioner is involved in a serious and heinous offence. He is facing charge of having been found in conscious possession of a huge quantity of Charas (commercial quantity), which dis-entitles him from grant of bail by application of Section 37 of the ND&PS Act.

7. The petitioner is also stated to have been involved in two more cases under ND&PS Act one having

been registered at Police Station, Mohali vide FIR No. 25/2020 and the other at Police Station Kotwali Nabha (Punjab) vide FIR No. 88/2014.

8. I have heard learned counsel for the parties and have also gone through the records of the case carefully.

9. It is a settled proposition of law now that the rigors of Section 37 of the ND&PS Act have to give way to the fundamental right of liberty, in cases the pre-trial incarceration is duly prolonged. The status report reveals that the prosecution has cited total 11 witnesses and 4 of them have already been examined. The next date fixed by learned trial Court for recording statements of two more prosecution witnesses is stated to be 24.02.2025.

10. The petitioner is in custody since 05.11.2022. No doubt, the trial has got prolonged, but it is not one of those cases where the conclusion of trial is not visible in near future. Already 4, out of 11 witnesses, have been examined. There is nothing on record to suggest that the examination of remaining witnesses will not be possible within reasonable period of time.

11. The petitioner has not been able to controvert the allegation that he is an accused in two more cases registered in different Police Stations in the State of Punjab under ND&PS Act. The factum of involvement of petitioner in number of cases under ND&PS Act, coupled with the alleged recovery of huge quantity of Charas from conscious possession of petitioner in the instant case, provides prima-facie reasons to infer the involvement of petitioner in dangerous drug trade, which is causing serious erosion in the societal fabric and ultimately, the very security and integrity of the Nation.

12. In view of the given history attributed to the petitioner, the apprehension expressed by the respondent as to possibility of petitioner fleeing from the course of justice can also not be ignored. Thus, I do not find this to be a fit case to grant bail to the petitioner at this stage. The petition is accordingly dismissed.

13. However, keeping in view the rights of the petitioner and also that he is suffering incarceration for almost two years, it is expected from learned trial Court to expedite the trial.

14. Any expression of opinion herein-above shall have no bearing on the merits of the case and shall be deemed only for the purpose of disposal of this petition.

29th November, 2024.
(GR)

(Satyen Vaidya)
Judge