

IN THE COURT OF PRINCIPAL SESSIONS JUDGE (SPECIAL JUDGE)  
KATHUA

Case No.: 161 /2021  
CNR NO. JKKT01000358-2021

Alam Din age 21 years S/o Saif Din R/o Village Bathal Chack, Tehsil Hiranagar  
District Kathua.

Through: Mr. T.N.Gupta Advocate  
Vs.

U.T of J&K through Police Station, Rajbagh and Incharge P/P Marheen.  
Through: Mr. Surinder Kumar PP

In the matter of:-

Application for grant of bail.

CORAM

JAFFER HUSSAIN BEG  
JO Code: JK00040

ORDER  
05.07.2021

1 The above named petitioner in custody has sought the indulgence of this Court to admit him to bail in FIR No 95/2021 for offence U/S 8/21/22 NDPS Act on the grounds that he is innocent and has not committed any offence. He is ready to obey the directions of this Court.

2. Police report is testimony to the fact that FIR No.95/2021 for offence U/S 8/21/22 NDPS Act was lodged on 11.06.2021 at 5.40 P.M, 5.4 grams of heroine was recovered from the possession of accused. The investigation is in progress.

3. PP has resisted the application by filing objection stating therein that the accused has committed offences which are serious in nature. In case the petitioner is admitted to bail at this stage he will win over the prosecution witnesses and the like minded persons would be encouraged to kill the number of youth by drug addiction.

4. I have heard the arguments advances at the bar and have perused the entire material on record.

5. Quantity of heroine allegedly seized from petitioner, is greater than small and lesser than commercial quantity, therefore, in terms of sections 21(b) and 22(b) of NDPS Act, maximum punishment is rigorous for a term may extend to 10 years and with fine which may extend to one lakh rupees. Since alleged recovery from the applicants do not attract provisions of section 37 of NDPS, Act, therefore, application is required to be dealt with

on sound principle, laid by catena of judgments, in terms of section 438, Criminal Procedure Code 1973, governing the grant of bail when accusation do not entail conviction for life or death. Therefore, one of the considerations for the court should be nature of accusation, severity of punishment in case of conviction and nature of supporting evidence.

6. Menace of drug trafficking has drastically shoot up, elsewhere in the country but specially in the State of Jammu & Kashmir for the last two decades and has swollen in its venomous ambit, the young generation of the nation and also seriously had effected the economy of the country. As such, in case perpetrators of this gruesome crime if let loose, there is every likelihood of repetition and continuing transportation and smuggling of alleged narcotic.

7. Experience would show that the business of drug in different form swallow each and every root and corner and in order to achieve this nefarious design the people have been involved in different capacity i.e, carriers, transporters, consumers etc. however, unless and until the roots which are embedded somewhere else are not traced and uprooted this menace cannot be cut, therefore, those pockets from where it is distributed, sold and actually production takes place require to be dealt with iron hands. It needs to be mentioned that amongst those who are involved in drug business can said to be doing continue wrong, who are infect distributing, selling and have undertaken the production of such barbiturate substances.

8. It appears from the perusal of police report that by now sufficient material has been collected showing complicity of the applicants in commission of alleged offence and investigation is still going on, therefore, keeping in view the nature of accusation and severity of punishment, particularly vulnerability of witnesses and ordinary gullible citizens who could fall prey to the menace of drug, because of presence of petitioner therefore, at this stage petitioner cannot be enlarged on bail, as investigation is in infancy.

9. In view of above discussion the application of the petitioner is not maintainable at this stage and the same is dismissed. File after due completion shall go to records.

Announced  
05.07.2020

  
(Jaffer Hussain Beg)

Principal Sessions Judge (Spl. Judge)

Kathua

Rajesh  
E.A