

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

**Cr.MP(M) No. 2030 of 2020**

**Date of Decision 18<sup>th</sup> Dec, 2020**

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**Raj Kumar @ Sethi**

**...Petitioner**

**Versus**

**State of HP**

**....Respondent**

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*Coram*

**The Hon'ble Mr. Justice Vivek Singh Thakur, J.**

Whether approved for reporting?<sup>1</sup> Yes

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For the Petitioner:

Ms. Sheetal Vyas, Advocate,  
through Video Conferencing.

For the Respondent:

Mr.Raju Ram Rahi, Deputy  
Advocate General, through Video  
Conferencing.

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**Vivek Singh Thakur, J.**

This petition has been preferred for enlarging the petitioner on bail in case FIR No. 128 of 2020 dated 3.9.2020 registered in Police Station Damtal, District Kangra HP, under Sections 21, 22 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act')

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<sup>1</sup> *Whether Reporters of Local Papers may be allowed to see the judgment?*

2 Status report stands filed, wherein it is stated that on the basis of reliable information, house of petitioner was searched and during that search, petitioner had skipped from the back door of house and had run away. Despite efforts, he could not be chased. During search, 1500 capsules of Tramadol were recovered from the container of rice kept in kitchen of house of petitioner and since then, petitioner was absconding and had approached this Court on 13.11.2020 on which date, interim bail was granted to him. Thereafter, petitioner has joined the investigation on 15<sup>th</sup> November, 2020, however, his custodial interrogation has been prayed to interrogate him in the matter to elucidate further information.

3. It is also stated in status report that earlier also, case FIR No. 249 of 2003, dated 29.11.2003 under Sections 452, 324, 323 and 342 IPC; FIR No. 18 of 2017 dated 5.1.2017 under Section 21 of NDPS Act ; and FIR No. 213 of 2017 dated 6.7.2017 under Section 21 of NDPS Act were registered in Police Station Nurpur and a case FIR No. 125 of 2019 dated 4.10.2019 under Section 21 of NDPS Act was registered in Police Station Damtal against the petitioner/accused. In this year also, in the month of July, 2020, FIR No. 93 of 2020 under Sections 21 and 29 of NDPS Act has been registered against petitioner in Police Station

Damtal wherein 36.62 grams heroine was allegedly recovered from him.

4. It is also stated that one Kiran, claiming her to be sister of petitioner, was also overpowered in the residence of the petitioner, who, on seeing police, had thrown a chaff wherein 6.12 gram heroin was recovered. The said Kiran has been arrested and she is in judicial custody.

5. Considering the entire facts and circumstances of the case and prayer of Investigating Agency, I find that it is not a fit case to extend the benefit of Section 438 Cr.P.C. to the petitioner, rather, his custodial interrogation, as has been prayed, would be necessary. Therefore, present petition is dismissed. Needless to say that interim protection granted on 13<sup>th</sup> November, 2020 also stands revoked. Petitioner is directed to surrender in concerned Police Station latest by tomorrow i.e. 19<sup>th</sup> December, 2020.

6. Petition stands disposed of. Any observation made in this order shall not affect the merits of case in any manner and will strictly confine for the disposal of this bail application filed under Section 438 of Code of Criminal Procedure 1973.

**December 18,2020**  
**(ms)**

**(Vivek Singh Thakur)**  
**Judge**