

Mustakim vs State Of H.P on 12 January, 2024

Author: Vivek Singh Thakur

Bench: Vivek Singh Thakur

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IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MP(M) Nos.2048 and 2484 of 2023
Date of Decision 12th January, 2024

Cr.MP(M) No. 2048 of 2023
Mustakim

...Petitioner

Versus

State of H.P.

....Respondent

Cr.MP(M) No.2484 of 2023
Mohammad Deen & Kala

...Petitioner

Versus

State of H.P.

....Respondent

Coram

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

Whether approved for reporting?

For the Petitioner(s): Mr. Deepak Kaushal, Sr. Advocate with Mr.Aditya Chouhan, in Cr.MP(M) No. 2048 of 2023.

Mr. Rahul Singh Verma, Advocate in Cr.MP(M) No. 2484 of 2023.

For the Respondent(s):

Mr.Varun Chandel &
Mandhotra,Additional
General.

Mr.Rajesh
Advocate

Vivek Singh Thakur, J.

Since both these petitions arise out of the same FIR, the same are consolidated and disposed of together in order to avoid repetition and for the sake of convenience.

2. Petitioners have approached this Court under Section 439 of Criminal Procedure Code (in short 'Cr.P.C.') for granting them bail in case FIR No. 21 of 2021 dated 11.02.2021, registered under Sections 15, 29, 27-A, 61 and 85 of Narcotic Drugs and Psychotropic Substances Act (hereinafter in short 'NDPS Act') in Police Station Paonta Sahib, District Sirmaur (H.P.). 3 Status Report stands filed, wherein it is brought on record that on 11.02.2021, at about 6 a.m., on the basis of reliable information that from Truck No. HP-11-4991 going towards Banjara Basti huge poppy-straw can be recovered, the said information was transmitted to Sub Divisional Police Officer as required under Section 42 (2) of NDPS Act and police party rushed towards Banjara Basti where aforesaid Truck was found coming towards Satiwala Chowk main road. However, on seeing the PCR van of police, person driving the Truck, after parking it came out from driver side and had fled towards Yamuna River by taking benefit of darkness and dense fog, and despite taking help of torch and mobile light, he could not be chased by police officials, and during checking of Truck, 8 plastic bags were found in rear portion of Truck and on opening of one bag, poppy-straw was found therein, which created suspicion that other 7 plastic bags might be containing poppy-straw, whereupon house owners of houses, adjacent to the spot, were asked to join search and seizure process, but, by citing their difficulties, they refused to come on spot, whereupon Panchayat Pardhan Anjana and Up- Pardhan Satnam Singh were called on spot from their houses through PCR van and were asked to join search and seizure process, but, they also refused to join as independent witnesses by referring their own limitations and problems. Thereafter, a Constable was sent to Toll Tax Barrier Bahral in search of independent witness wherefrom Toll Tax Barrier employee Arun Sharma agreed to become an independent witness and thus, he was associated in search and seizure process. Thereafter, 8 plastic bags were unloaded from Truck and each bag was opened and checked, wherein poppy-straw was found. On weighing with electronic scale available in police vehicle, in total 200.278 Kg poppy-straw was found in those bags. Thereafter, by sending a ruka, FIR was registered in Police Station and recovered contraband was seized and taken in possession by Investigating Officer. After that, SI Gian Singh along with police officials went to Khaira valley of Yamuna river in search of accused. In that valley also, he found 6 plastic bags of poppy-straw and two spades and one belcha kept in pits of sand under cover of bushes. In these bags, in total 150.500 Kg poppy-straw was found, which was also taken in possession along with belcha and spades. 4 During investigation, on interrogation Truck owner co-accused Ajmer Singh disclosed that on 10.2.2021 Parveen Kumar resident of Satiwala, who was his neighbour, approached him in the morning for his Truck to shift the goods therein and he (Ajmer) agreed for that and in the evening Parveen and Subhash came to his house and asked him to bring the Truck near Reliance Petrol Pump, Taruwala by saying that both of them would meet him there, whereupon, Ajmer drove his Truck from his house and Parveen and Subhash followed him in his (Ajmer's) Alto car and thereafter, Parveen telephonically informed Ajmer that Mohammad Deen @ Kala and Chaman @ Tinku will meet him before the petrol pump and asked him (Ajmer) to hand over the key of Truck to them and accordingly he (Ajmer) handed over the key of Truck to Mohammad Deen and Chaman @ Tinku and started coming back on foot towards Badripur and by that time, Parveen and Subhash, who had brought his car, handed over the car to him and thereafter he (Ajmer) went home.

5 It is stated in status report that since 12.02.2021, police attempted to search Mohammad Deen @ Kala, Chaman @ Tinku, Subuash and Parveen in their homes, but, they absconded to avoid their arrest and thereafter, on 19.2.2021, Mohammad Deen @ Kala and Budh Ram could be traced after great difficulty and were associated in the investigation alongwith Ajmer Singh and during interrogation, Mohammad Deen disclosed that poppy- straw was brought out of State in another Truck with help of Parveen, Subhash and Chaman @ Tinku and thereafter, Mohammad Deen @ Kala, Ajmer Singh and Budh Ram were arrested on 19.02.2021 and their police remand was obtained on 20.02.2021.

6 As per status report, on 20.02.2021, Mohammad Deen had made a disclosure statement under Section 27 of Indian Evidence Act in the presence of independent witness Gaurav Dhiman, Block Development Officer Paonta Sahib and ASI Ram Lal and in pursuant thereto, 4 bags of poppy-straw were recovered from Satiwala forest/Khudd wherein in total 101.530 Kg. poppy-straw was recovered.

7 The recovered contraband was sent for chemical analysis to the State FSL Junga and it has been reported by State FSL that recovered material was poppy-straw. 8 As per status report, on 22.1.2021 Mohammad Deen @ Kala had gone to Jharkhand where on 27.01.2021 he purchased 680 Kg. poppyhusk from a person named Managal for consideration of Rs. 1,80,000/- and for purchasing that Mustakim had paid Rs.80,000/- in cash and Rs.90,000/- by transferring to SBI Bank Account of Mohammad Deen and Central Bank of India Account of Mohammad Deen through his son Dilashad and he had accompanied Mohammad Deen along with others to Jharkhand. As per status report, account statement of bank account of Mohammad Deen was obtained wherein aforesaid amount was found to be transferred to said account. Dilshad son of Mustakim has produced screen shot of mobile as well as his mobile phone which was sent for analysis to the State Forensic Science Laboratory Junga and as per report received from State FSL, the soft copy of printouts marked as C-1 to C-21 along with contact and WhatsApp chats were found to be present in the data extracted from the mobile phone Exhibit-1. It has been further reported in status report that petitioner Mustakim has also been involved in commission of offence under NDPS Act in case FIR No. 37 of 2011 dated 5.4.2011 under Section 15 of NDPS Act, FIR No. 33 of 2018 dated 20.02.2018 under Section 15 of NDPS Act in Police Station Chhachhrauli and trial in those cases is pending adjudication in Courts.

9 As per status report, petitioner Mohammad Deen @ Kala and Budh Ram were traced with difficulty on 19.02.2021 and during interrogation, Mohammad Deen admitted the transportation of poppyhusk and thereafter, he was arrested on same day. During interrogation, on the basis of disclosure statement of Mohammad Deen, 101.530 Kg. poppyhusk was recovered from Satiwala forest/Khud, which was taken in possession and seized by adopting the prescribed procedure. As per status report, Mohammad Deen had transported the poppyhusk for Mustakim. It has also been stated in status report that during his police custody, Praveen Kumar had disclosed that 14 bags of contraband were to be supplied by Mohammad Deen to him (Praveen Kumar) and 14 bags were to be sold to Mustakim and consideration of that is to be paid by Mustakim. 10 As per status report, there are 10 accused in the present case. Challan against eight accused persons except Praveen Kumar and Deepak Kumar was presented in Court on 17.08.2021. Whereas supplementary challan

with respect to aforesaid two, after their arrest, was presented in Court later on. Out of 10 accused, all accused except two present petitioners have been enlarged on bail. The trial is at the stage of consideration of charge for which next date has been fixed in the Trial Court on 20th January, 2024.

11 Learned counsel for petitioner Mustakim has contended that nothing has been recovered from the conscious possession of Mustakim and he has been implicated and arrested in the matter only on the basis of disclosure statement made by co-accused and Call Details Records and he is behind the bars since last about more than 2 years and 9 months. 12 Learned counsel for the petitioner has referred order dated 10.01.2022 passed by Supreme Court in Special Leave to Appeal (Crl.) No.242 of 2022, titled as State by (NCB) Bengaluru vs. Pallulabid Ahamad Arimutta & another, wherein taking note of earlier judgment passed by the Supreme Court in Tofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1, Supreme Court has upheld grant of bail to the accused persons, who were arrayed as accused and arrested on the basis of disclosure statement of co-accused only, but without having any admissible evidence against them except the disclosure statement of co-accused and Call Detail Records (CDRs).

13. Learned counsel for petitioner has also placed reliance on paragraphs 9 and 10 of the Supreme Court in Pulluabid Ahamad Arimutta's case, which read as under:-

"9. Having gone through the records along with the tabulated statement of the respondents submitted on behalf of the petitioner/NCB and on carefully perusing the impugned orders passed in each case, it emerges that except for the voluntary statements of A-1 and A-2 in the first case and that of the respondents themselves recorded under Section 67 of the NDPS Act, it appears, prima facie, that no substantial material was available with the prosecution at the time of arrest to connect the respondents with the allegations leveled against them of indulging in drug trafficking. It has not been denied by the prosecution that except for the respondents in CLP (Crl.) No. 1569 of 2021, none of other respondents were found to be in possession of commercial quantities of psychotropic substances, as contemplated under the NDPS Act.

10. It has been held in clear terms in Tofan Singh vs. State of Tamal Nadu, (2021)4 SCC 1 that a confessional statement recorded under Section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. In the teeth of the aforesaid decision, the arrests made by the petitioner- NCB, on the basis of the confession/voluntary statements of the respondents or the co- accused under Section 67 of the NDPS Act, cannot form the basis for overturning the impugned orders releasing them on bail. The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders dated 16th January, 2020, 19th December, 2019 and 20th January, 2020 passed in SLP (Crl.) No. Diary No.22702/2020, SLP (Crl.) No.1454/2021, SLP (Crl.) No. 1465/2021, SLP (Crl.) No. 1773-

respectively. The impugned orders are,

accordingly, upheld and the Special Leave Petitions filed by the petitioner-NCB seeking cancellation of bail granted to the respective respondents, are dismissed as meritless."

14 It has been further submitted that transaction of money by son of Mustakim to Mohammad Deen does not mean that Mustakim was involved in the commission of offence for transporting the contraband recovered from the truck or at the instance of other co-accused. According to him, had it been so, then money would not have been transmitted through personal mobile or account of Mustakim or his son but would have transferred by other means apart from Online transaction from the account. He has further submitted that in any case, if story of prosecution is considered to be true even then considering the pace of trial and incarceration period suffered by petitioner for his period of detention, he is entitled for bail as according to him case has now been listed for consideration of charge but not for framing of charge and it is not sure that on 20 th January, 2024 charge would be framed and even if it is framed, then keeping in view the large number of witnesses cited and relied upon by prosecution, the conclusion of trial shall take sufficient time leading to unwarranted detention of petitioner for a considerable long period and therefore, it has been contended that petitioner is also entitled for enlarging him on bail on the grounds of delay in trial and prolonged detention.

15 Learned counsel for petitioner Mohammad Deen has submitted that nothing was recovered from possession of Mohammad Deen and he was not arrested from the spot but has been implicated and arrested on the basis of statement of co-accused and thereafter, it has been claimed that he has made the disclosure statement under Section 27 of Indian Evidence Act leading to recovery of four bags of poppy-husk weighing about 100 Kg. He has submitted that alleged recovery of contraband has been shown from the bank of Yamuna river which is accessible and open for all and public at large is at liberty to visit the said place and therefore, it cannot be believed that bags of poppyhusk were kept by Mohammad Deen on the bank of Yamuna river. He has further submitted that even prosecution case is considered to be true with respect to Mohammad Deen, then also the quantity of contraband recovered from him is 100 Kg. and he is behind the bars since last more than 2 years and 10 months and by the time, charges are likely to be framed he would be completing detention of 3 years even before commencement of trial. He has further submitted that keeping in view the lengthy list of witnesses, relied upon by prosecution, it is undoubted that completion of trial shall take a considerable long time and in case petitioner is not enlarged on bail, he shall suffer unnecessary detention for a prolonged period which is not permissible and in similar cases, the Courts have enlarged the accused persons on bail.

16 Learned counsel for the petitioner, to substantiate plea for bail, has referred pronouncement of the order dated 01.08.2022 passed by the Supreme Court in a petition for Special Leave to Appeal (Crl.) No.3961 of 2022, titled as Abdul Majeed Lone vs. Union Territory of Jammu and Kashmir, wherein petitioner facing trial for having been found in possession of 1100 grams commercial quantity of charas was enlarged on bail for suffering incarceration for over 2 years and 5 months, observing that there was no likelihood of completion of trial in near future; and order dated

12.10.2020, passed by Three Judges' Bench of the Supreme Court, in Criminal Appeal No.668 of 2020, titled as Amit Singh Moni vs. State of Himachal Pradesh, whereby petitioner therein, facing trial for recovery of 3.285 kilograms charas from a vehicle, alongwith four other persons, was enlarged on bail for having been in detention of 2 years and 7 months, as till then out of 14 witnesses, 7 witnesses were yet to be examined and last witness was examined in February 2020 and, thereafter, there was no further progress in the trial.

17 Learned counsel for the petitioner has referred pronouncement of the Supreme Court in Nitish Adhikary @ Bapan v. The State of West Bengal, Special Leave to Appeal (Crl.) No.5769 of 2022, decided on 1.8.2022, whereby the accused, under Sections 21(c) and 37 of NDPS Act, was ordered to be enlarged on bail after detention of 1 year and 7 months, observing that the trial was at a preliminary stage. 18 Learned counsel for the petitioner has also placed reliance on order dated 7.2.2020 passed by the Supreme Court in Criminal Appeal No. 245 of 2020, titled as Chitta Biswas Alias Subhas Vs. The State of West Bengal, whereby accused having found in possession of Codeine mixture above commercial quantity, was enlarged on bail after 1 year 7 months, at the stage of trial when out of 10 witnesses, 4 witnesses have been examined in the trial.

19 Reliance has also been placed on order dated 10.11.2021 passed by the Supreme Court in Special Leave to Appeal (Criminal) No. 5187 of 2021, titled as Kulwant Singh Vs. The State of Punjab, whereby accused after detention of more than 2 years, was enlarged on bail despite the fact that recovered contraband was of commercial quantity, for prayer to grant of bail was on the ground of advanced age of petitioner, period of custody undergone by him and the fact that trial would take time to conclude.

20 Learned counsel for the petitioner has also placed reliance upon order dated 7.12.2021 passed by the Supreme Court in Criminal Appeal No. 1570 of 2021, titled as Mahmod Kurdeya Vs. Narcotics Control Bureau, whereby petitioner apprehended with thousands of tablets of Tramadol X-225, was enlarged on bail. In this case, quantity of drug recovered was more than 50 Kilograms. However, in this case bail was granted by taking into consideration the fact that charge-sheet was filed on 23.9.2018 and thereafter even charges had not been framed nor trial had commenced till grant of bail to the petitioner, whereas manufacturer who sold the drug to the accused had been granted bail.

21 Learned counsel for petitioner has also relied upon order dated 5.8.2022 passed by the Supreme Court in Gopal Krishna Patra @ Gopalrusma vs. Union of India (Cr. Appeal No. 1169 of 2022), wherein accused in custody since 18.6.2020 was ordered to be enlarged on bail considering the facts and circumstances on record and length of custody undergone by him.

22 Learned counsel for petitioner has placed reliance upon judgment dated 13.1.2023 passed by this Bench in Cr.MP(M) No. 61 of 2023 titled Chet Ram vs. State of Himachal Pradesh wherein an accused under detention for the last 3 years and 11 months for recovery of 1.900 Kg. charas has been ordered to be enlarged on bail.

23 Learned counsel for petitioner has placed reliance upon judgment dated 29.12.2022 passed by Coordinate Bench in Cr.MP(M) No. 2703 of 2022 titled Ram Chand vs. State of Himachal Pradesh

wherein an accused under detention for the last 3 years and 11 months for recovery of 2 Kg. charas has been ordered to be enlarged on bail.

24 Learned counsel for petitioner has placed reliance upon judgment dated 22.12.2022 passed by Coordinate Bench in Cr.MP(M) No. 2521 of 2022 titled Prem Chand vs. State of Himachal Pradesh wherein an accused under detention for the last 3 years and 9 months for recovery of 2.605 Kg. charas has been ordered to be enlarged on bail.

25 Learned counsel for petitioner has placed reliance upon judgment dated 28.2.2023 passed by Coordinate Bench in Cr.MP(M) No. 349 of 2023 titled Kewal Ram vs. State of Himachal Pradesh wherein an accused under detention for the last 5 years and 4 months for recovery of 3.045 Kg. charas has been ordered to be enlarged on bail.

26 Learned counsel for petitioner has placed reliance upon judgment dated 12.12.2022 passed by this Bench in Cr.MP(M) No. 2324 of 2022 titled Rajesh Kumar vs. State of Himachal Pradesh wherein an accused under detention for the last 3 years and 5 months for recovery of 3.125 Kg. charas has been ordered to be enlarged on bail.

27 Learned counsel for petitioner has placed reliance upon judgment dated 12.1.2023 passed by Coordinate Bench in Cr.MP(M) No. 59 of 2023 titled Joseph Shobal vs. State of Himachal Pradesh and judgment dated 26.12.2022 passed by Coordinate Bench in Cr.MP(M) No. 2657 of 2022 titled Jeet Ram vs. State of Himachal Pradesh wherein an accused under detention for the last 3 years and 3-4 months for recovery of 3.382 Kg. charas have been ordered to be enlarged on bail. 28 Learned counsel for petitioner has placed reliance upon judgment dated 20.2.2023 passed by Coordinate Bench in Cr.MP(M) No. 327 of 2023 titled Surender Singh vs. State of Himachal Pradesh wherein an accused under detention for the last 2 years and 7 months for recovery of 4.76 Kg. charas has been ordered to be enlarged on bail.

29 Learned counsel for petitioner has placed reliance upon judgment dated 23.2.2023 passed by Coordinate Bench in Cr.MP(M) No. 323 of 2023 titled Tivalue @ Shiv Chand vs. State of Himachal Pradesh wherein an accused has been enlarged on bail who was under detention for the last 3 years and 4 months for recovery of 5 Kg. charas and out of 11 witnesses only 6 witnesses were examined.

30 Learned counsel for petitioner has placed reliance upon judgment dated 23.12.2022 passed by Coordinate Bench in Cr.MP(M) No. 2570 of 2022 titled Chet Ram vs. State of Himachal Pradesh; judgment dated 4.1.2023 passed by Coordinate Bench in Cr.MP(M) No. 2836 of 2022 titled Kaul Ram vs. State of Himachal Pradesh; judgment dated 04.01.2023 passed by Coordinate Bench in Cr.MP(M) No. 2837 of 2022 titled Krishan Chand vs. State of Himachal Pradesh wherein accused under detention for the last 3 years and 1 month for recovery of 5.679 Kg. charas have been ordered to be enlarged on bail, observing as under:-

"7. The fetters placed by Section 37 of ND&PS Act, evidently have been instrumental in denial of right of bail to the petitioner in the instance case till date. The question that arises for consideration is, can the provisions of Section 37 of the Act, be

construed to have same efficacy, throughout the pendency of trial, notwithstanding, the period of custody of the accused, especially, when it is weighed against his fundamental right to have expeditious disposal of trial?

8. It is submitted by learned counsel for the petitioner that till date only eight witnesses have been examined and ten more witnesses remain to be examined, despite the fact that petitioner is in custody since 20.11.2019. In the considered view of this Court, the Constitutional guarantee of expeditious trial cannot be diluted by applying the rigors of Section 37 of ND&PS Act in perpetuity.

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12. In Gopal Krishna Patra @ Gopalrusma vs. Union of India (Cr. Appeal No. 1169 of 2022) decided on 05.08.2022, Hon'ble Surpeme Court has held as under:-

"The appellant is in custody since 18.06.2020 in connection with crime registered as NCB Crime No.02/2020 in respect of offences punishable under Sections 8, 20, 27-AA, 28 read with 29 of Narcotic Drugs and Psychotropic Substances Act, 1985. The application seeking relief of bail having been rejected, the instant appeal has been filed. We have heard Mr.Ashok Kumar Panda, learned Senior Advocate in support of the appeal and Mr.Sanjay Jain, learned Additional Solicitor General for the respondent. Considering the fact and circumstance on record and the length of custody undergone by the appellant, in our view the case for bail is made out"

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16. Reverting to the facts of the case, the petitioner is in custody since 20.11.2019 and the facts suggest that the trial is not likely to be concluded in near future.

There is nothing on record to suggest that the delay in trial is attributable to the petitioner."

31 Referring aforesaid pronouncements, learned counsel for petitioner has pleaded that petitioner is also entitled for bail on the same analogy.

32 Learned Additional Advocate General has submitted that petitioner has committed a heinous crime which is not only destroying the individual but Society at large and, therefore, for having been found in commercial quantity of prohibited manufactured drug/psychotropic substance, he is not entitled for bail.

33 Petitioner Mustakim has approached this Court earlier by filing Cr.MP(M) No. 1550 of 2022, which was rejected vide judgment dated 9th November, 2022 and thereafter, petitioner again approached this Court by filing Cr.MP(M) Nos. 78 of 2023 and 671 of 2023, which were dismissed as withdrawn vide orders dated 13th January, 2023 and 16th June, 2023 respectively.

34 Petitioner was enlarged on temporary bail vide order dated 13th July, 2023 passed in Cr.MP(M) No. 1657 of 2023 titled Mustakim vs State of HP for arranging and attending the marriage of his son in the month of July, 2023. After expiry of period of interim bail, petitioner surrendered before the concerned Jail Superintendent on 31st July, 2023. It has been contended that petitioner is a law abiding citizen. 35 Petitioner namely Mohammad Deen had also earlier approached this Court by filing Cr.MP(M) Nos. 355 of 2022 and 568 of 2023, which were dismissed as withdrawn on 17th June, 2022 and 16th June, 2023 respectively. It has been further submitted that petitioner was enlarged on interim bail vide order dated 17th August, 2022 passed in Cr.MP(M) No. 1731 of 2022 for arranging and attending the marriage of his daughter and after expiry of period of interim bail, he had surrendered before the concerned Jail Superintendent and during his enlargement on bail, nothing adverse was reported.

36 Learned counsel for petitioners have further submitted that petitioners are ready to furnish personal and surety bonds of local persons as well as of relative and also undertake to abide by any condition which may be imposed by Court in case of release of petitioners on bail, in order to ensure their presence during trial.

37 It has been further submitted by learned counsel for petitioners that there is no role of petitioners for delaying the trial and in the status report, there is no explanation rendered by respondent/State for not commencing the trial despite the fact that petitioners are under-trial prisoners and are waiting for commencement of trial since the last about 3 years. 38 Without commenting upon merits of case and taking into consideration the entire facts and circumstances including the period of detention and stage of trial and also taking into account factors and parameters, as propounded by the Supreme Court and this Court, required to be considered at the time of adjudication of bail application, I am of the opinion that petitioners may be enlarged on bail in present case at this stage. 39 Accordingly, present petitions are allowed and petitioners are directed to be enlarged on bail in present case, subject to their furnishing personal bond(s) in the sum of Rs.2,00,000/- each with two sureties each in the like amount, one of which should be of local surety and other should be of relative, as undertaken by petitioners, to the satisfaction of the trial Court/Special Judge, upon such further conditions as may be deemed fit and proper by the trial Court, including the conditions enumerated hereinafter, so as to assure the presence of petitioners/accused at the time of trial:-

(i) That the petitioner(s) shall make themselves available to the police or any other Investigating Agency or Court in the present case as and when required;

(ii) that the petitioner(s) shall 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 Court or to any police officer or tamper with the evidence.

They shall not, in any manner, try to overawe or influence or intimidate the prosecution witnesses;

(iii) that the petitioner(s) shall not obstruct the smooth progress of the investigation/trial;

(iv) that the petitioner(s) shall not commit the offence similar to the offence to which they are accused or suspected;

(v) that the petitioner(s) shall not misuse their liberty in any manner;

(vi) that the petitioner(s) shall not jump over the bail;

(vii) that in case petitioner(s) indulge in repetition of similar offence(s) then, their bail shall be liable to be cancelled on taking appropriate steps by prosecution;

(viii) that the petitioner(s) shall not leave the territory of India without prior permission; and

(ix) that the petitioner(s) shall inform the Police/Court their contact number and shall keep on informing about change in address and contact number, if any, in future.

40 It will be open to the prosecution to apply for imposing and/or to the trial Court to impose any other condition on the petitioners as deemed necessary in the facts and circumstances of the case and in the interest of justice and thereupon, it will also be open to the trial Court to impose any other or further condition on the petitioners as it may deem necessary in the interest of justice.

41 In case the petitioners violate any condition imposed upon them, their bail shall be liable to be cancelled. In such eventuality, prosecution may approach the competent Court of law for cancellation of bail, in accordance with law. 42 Trial Court is directed to comply with the directions issued by the High Court, vide communication No.HHC.VIG./Misc. Instructions/93-IV.7139 dated 18.03.2013. 43 Observations made in these petitions hereinbefore, shall not affect the merits of the case in any manner and are strictly confined for the disposal of the bail applications.

Petitions are disposed of in aforesaid terms. Petitioners are permitted to produce/use copy of this order, downloaded from the web-page of the High Court of Himachal Pradesh, before the trial Court/Special Judge, and the said Court shall not insist for production of a certified copy but if required, may verify it from Website of the High Court.

(Vivek Singh Thakur), Judge.

January 12, 2024 (MS) SUBHASH DN: C=IN, O=HIGH COURT OF HIMACHAL PRADESH, OU=HIGH COURT OF HIMACHAL PRADESH SHIMLA, Phone=3418061207364d8c002725dfc58ff116f678c3d3928 9db29b992cce875905119, PostalCode=171001, CHAND S=Himachal Pradesh, SERIALNUMBER=5ce240fac0e1267843f29509683d09a9912af10edc 4e6cd2ed5d4a8c30134c1b, CN=SUBHASH CHAND DHIMAN DHIMAN Reason: I am the author of this document Location:

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