

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 45338 of 2021
Date of Decision: 13.12.2021**

Monu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. V.B.Godara, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

(Through video conferencing)

1. The bail applicant-petitioner is in judicial custody in pursuance to the lodging of FIR bearing No. 346 of 5.10.2019, registered at Police Station Bhuna, District Fatehabad, constituting therein offences under Sections 21-B, and, 27-A of the NDPS Act, 1985.

2. The bail applicant-petitioner has been implicated as an accused, in the FIR (supra), in pursuance to the disclosure statement, made by one Vicky @ Hondi, from whose alleged conscious and exclusive possession, recovery of 10.35 grams of heroin, became effected, at the site of occurrence, by the investigating officer concerned.

3. The afore made implication of the bail applicant-petitioner does not, at this stage, suffer from any legal infirmity. Moreover, given the factum that the recovery of the afore narcotic substance, from the alleged

conscious and exclusive possession of co-accused Vicky @ Hondi, falls

within less than the commercial quantity thereof. Therefore, the rigour of Section 37 of the NDPS Act, against grant of bail to the petitioner, does not become attracted. Contrarily, the indulgence of bail is to be accorded, to the bail applicant-petitioner herein.

4. However, learned Deputy Advocate General, Haryana, has made a submission before this Court, that since the bail applicant-petitioner is a habitual offender, thereupon, in case the facility of bail is granted to him, there is every likelihood of his abusing the facility of bail.

5. However, the vigour of the afore made submission, of the learned State Counsel, before this Court, can be mitigated, by imposition of stringent conditions, upon the petitioner-bail applicant.

6. Consequently, the instant petition is allowed, and, the petitioner-bail applicant is ordered to be released from judicial custody. However, the granting of bail to the bail applicant-petitioner, is subject to his furnishing personal and surety bonds in the sum of ₹50,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence, and, his not influencing prosecution witnesses, and, besides also his appearing before the trial Court concerned, as and when directed to make his personal appearance. Further, subject to petitioner-bail applicant making an undertaking before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, that in case, he re-indulges in criminal activities, whereupon, on breach thereof, the order made today, shall become *ipso facto* annulled, and, that, upon, his being forthwith arrested by the investigating officer concerned, the latter shall produce the petitioner-bail applicant before the trial Court concerned, for the latter making an order

for his being put to judicial custody.

7. Copy dasti.

(SURESHWAR THAKUR)
JUDGE

December 13, 2021
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes/No