

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 3635 of 2022
Date of Decision: 02.2.2022**

Roshan Ali @ Soni

.....Petitioner

Versus

U.T.Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Rahil Mahajan, Advocate for the petitioner.

Mr. Akashdeep Singh, APP, U.T., Chandigarh.

SURESHWAR THAKUR, J. (ORAL)

(Through video conferencing)

1. In FIR bearing No. 206 of 6.12.2021, offence constituted under Section 18 of the NDPS Act, 1985 is embodied. The FIR (supra) is lodged at Police Station Manimajra, Chandigarh.

2. The learned counsel appearing for U.T., Chandigarh, submits, that the weight of the opium, as became allegedly recovered from the conscious, and, exclusive possession of the bail applicant-petitioner, is about 503 grams. He further submits, that the weight of the afore seizure falls within intermediate quantity thereof.

3. Consequently, the rigours of Section 37 of the NDPS Act, are not applicable to the weight of the afore seizure. Therefore, the indulgence of bail is to be accorded, to the bail applicant-petitioner. Moreover, when at this stage, there is no evidence, produced on record, by the prosecution, suggestive that in case, the facility of bail is granted to the bail applicant-petitioner, there is a likelihood of his being fleeing from justice, and, tampering with the

prosecution evidence.

4. However, the learned counsel appearing for U.T., Chandigarh, 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 remain be *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

February 02, 2022
Gurpreet

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